

**A NOTE ON PUBLIC POLICY ISSUES  
IN THE CIGARETTE INDUSTRY**

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In December of 1953, as a result of recently-publicized research linking cigarette smoking with lung cancer, Business Week stated that the cigarette industry faced "what is perhaps potentially the gravest problem besetting any industry since Prohibition shut down the liquor business." (1) By September, 1984, however, Fortune could predict that "those 'little white tubes' will doubtlessly go right on making most cigarette investors richer and richer and the Surgeon General unhappier and unhappier." (2)

During this 30 year interval, approximately 45,000 medical studies were performed, a great many of which linked cigarette smoking not only with lung cancer, but to a host of other serious diseases. By 1984, more than 90 percent of the U.S. population believed that cigarette smoking was harmful to human health, and some 30 million had quit smoking as a result of this fear. Still, 55 million Americans continued to smoke, thousands of young people started smoking every day, and the cigarette industry remained one of the most profitable legal businesses in America.

This note will examine the development of public policy with regard to cigarettes. Section I is an historical sketch of the cigarette industry. Section II is a profile of the major cigarette companies' and their business strategies. Section III reviews the major medical research findings concerning the health implications of cigarette smoking. Section IV outlines the major public policy issues involving the cigarette industry during the 1980s. The note concludes with speculation by several knowledgeable observers concerning the future of the cigarette industry.

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This note was prepared by Joe B. Tye, MBA Candidate, under the supervision of Kirk Hanson, Lecturer in Business Administration, as the basis for class discussion rather than to illustrate either effective or ineffective handling of a public issue.

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## I. HISTORICAL DEVELOPMENT OF THE CIGARETTE INDUSTRY

### Early Years

When Christopher Columbus discovered the New World, he found the native Indians smoking tobacco. By the middle of the sixteenth century, the Spanish were cultivating tobacco commercially in the West Indies. Sir Walter Raleigh is credited with having popularized tobacco in Britain in the late 1500s. In 1613, the first commercial shipments of tobacco were made from the Jamestown colony to Britain. (See Appendix 1 for a chronology of the most important events in the history of the tobacco industry.)

Even in its early days in Europe, tobacco use provoked criticism. In 1604, Britain's King James I, in his now-famous Counterblaste to Tobacco, said smoking was "a custome lothsome to the eye, hatefull to the nose, harmefull to the braine, daungerous to the Lungs, and in the black stinking fume thereof, nearest resembling the horrible Stigian smoak of the pit that is bottomelesse." In the early 1600s, several New England colonies passed laws against tobacco use, though these were generally ineffective. Despite sporadic anti-smoking efforts, the popularity of smoking spread during the 18th and 19th centuries. Tobacco became a very important economic crop in many southern states during this period.

### Cultivating the Market: 1885-1918

In the early years, tobacco was smoked in pipes, chewed, or wrapped in tobacco leaves and smoked as cigars. Cigarettes became popular in Europe after British soldiers were exposed to them during the Crimean War of 1853-56. Cigarettes were not widely used in the U.S. until the late 1800s. In 1884, a cigarette rolling machine was perfected by James Bonsack. This machine was able to produce in one day what would have taken 488 workers to do by hand. Shortly thereafter, a safe portable match was invented. These two events greatly accelerated the proliferation of cigarette smoking in the U.S. Another significant event at about this time was the introduction of a blend of burley and turkish tobaccos, which made the smoke mild enough to be inhaled.

One of the best known figures in the history of cigarettes was James Buchanan Duke. With exclusive rights to the Bonsack cigarette machine, Duke obtained economies of scale that allowed him to significantly undercut the prices of rival companies. He bought out his competitors, and in 1890 formed the American Tobacco Company, which established a virtual monopoly on cigarette production in the U.S. In 1902, Britain's Imperial Tobacco Company-- an agglomeration of the thirteen major British tobacco companies that had been formed in response to a take-over threat from Duke-- pooled with American Tobacco to form a third company, British-American Tobacco (BAT), with Duke as the first chairman. The purpose of BAT was to develop foreign

markets.

In 1911, the American Tobacco Company was ordered dissolved by the U.S. Supreme Court on anti-trust grounds, freeing R.J. Reynolds, Lorillard (subsequently purchased by Loews' Theater Chain), Liggett & Meyers (subsequently renamed the Liggett Group, and acquired by Grand Metropolitan of Great Britain), and a number of smaller companies, to compete with the diminished American Tobacco (now known as American Brands). As part of the settlement, Duke sold his interest in BAT, which continued as an international tobacco company with important markets throughout the world, including a subsidiary (Brown and Williamson) in the U.S. (In 1984, BAT was the free world's largest seller of cigarettes, followed by Philip Morris). Philip Morris, never part of Duke's empire, was established in 1902. The Rembrandt Group was formed in South Africa just after the second World War. In the 1980s, these companies sold virtually every cigarette smoked in the free market economies, and had made significant inroads in countries with planned economies. (See Exhibit 1 for a profile of the major American cigarette companies.)

Opposition to cigarettes ebbed and flowed during this period. In the late nineteenth and early twentieth centuries, Lucy Page Gaston-- a former Women's Christian Temperance Union activist-- led a formidable anti-smoking crusade. As a result, cigarette consumption actually declined between 1897 and 1901, and a number of states enacted anti-smoking legislation, despite aggressive lobbying techniques-- including bribery-- by the Tobacco Trust. The anti-smoking movement reached its peak in about 1909, and shortly thereafter, many states began to repeal their anti-cigarette laws. The movement enjoyed a brief renaissance during the 1920s, but by 1928 was virtually extinct.

#### Expanding the Market: 1919-1949

America's participation in World War I provided the cigarette industry with a significant boost. General John "Black Jack" Pershing insisted that cigarettes be a part of each soldier's daily ration. At about this time, women increasingly began to take up smoking, a trend that was encouraged by cigarette advertising of the day. Cigarette sales climbed dramatically after the war, reaching the 100 billion mark in 1928. (Exhibit 2 includes a summary of historical cigarette consumption in the U.S.)

The mid-war years were a period of aggressive expansion by cigarette companies. In 1920, cigarette consumption was 665 per capita. By 1940, this had climbed to 1,976 per capita. One of the key figures during this period was George Washington Hill, the hard-driving president of the American Tobacco Company. Hill teamed up with the equally hard-driving advertising man Albert Lasker to develop an advertising campaign that soon propelled American's Lucky Strikes past Reynolds' Camel as the nation's top selling cigarette. Both men shared a "messianic faith in the power of hard-sell advertising," and more money was spent on the Lucky Strike campaign than for any single consumer product previously. (3)

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Hill and Lasker were responsible for much of the advertising that encouraged women to take up smoking. They arranged psychoanalytical studies to ascertain the factors that might induce women to begin smoking, and determined that independence and sexuality would be the keys. From these insights, they developed the "Reach for a Lucky Instead of a Sweet" ad. Hill also pioneered the use of radio as an advertising medium. In 1928, he instituted a blitz radio campaign, temporarily suspending all other advertising, to test its effectiveness. Over a two month period, sales increased by 47 percent, and other cigarette makers quickly joined the move into radio. (4)

During this period, cigarette advertisements began using health themes extensively, promising salutary effects associated with smoking. Although at this point in time, only anecdotal evidence linked smoking with disease, cigarette marketers were anxious to disassociate their product from throat irritation and coughing that many people connected with smoking. Many cigarette ads used testimonials from doctors, athletes, and singers to assure people that smoking was a salubrious habit. (Appendix 2 includes an historical sampling of health-related cigarette advertisements).

In the early 1950s, cigarette companies began to use television as an advertising medium. TV offered important advantages over print and radio, not least of which was that it allowed the actual process of smoking to be depicted. One of the chief beneficiaries of television was Philip Morris' Marlboro brand. Originally a women's cigarette, Marlboro had been repositioned for the men's market, and in early 1954-- shortly after the first major "health scare"-- the Leo Burnett advertising agency of Chicago developed the Marlboro cowboy image. Courtesy of TV, the sweeping ranges of "Marlboro Country" and the hard-riding, hard-smoking Marlboro Man could be brought into living rooms around the country to the music of "The Magnificent Seven". By 1972, Marlboro had risen from an obscure also-ran brand to being the world's best-selling cigarette, and far and away the leading cigarette of young people. Once again, a new communication medium had revolutionized the way that cigarettes were marketed, profoundly influencing the fortunes of certain brands, and the structure of the industry.

#### The Health Issue and Cigarette Company Responses: 1950-1985

After 1950, when serious medical research increasingly began to link smoking with disease, health became the dominant factor in both cigarette marketing and in public policy towards smoking. In 1953, reports from several major epidemiological studies confirmed that an extremely high proportion (in excess of 90 percent) of all lung cancer victims were cigarette smokers, and that the more an individual smoked, the greater the likelihood that one would die of lung cancer. Other research reported that year showed that cigarette tar painted on mouse skin caused tumors. This research was widely publicized in an influential article in Readers' Digest in 1954. (5)

Federal Government studies concerning smoking and health played a

major role in the formulation of public policy during this period. In 1964, the Surgeon General issued the report of an expert committee on The Health Consequences of Smoking which concluded that cigarette smoking was a cause of lung cancer, and "a health hazard of sufficient importance in the United States to warrant immediate action." A report by the British Royal College of Surgeons two years earlier had reached essentially the same conclusions. In 1979, The Surgeon General issued a mammoth report that summarized all of the research that had been conducted since 1964, and concluded that the health consequences of smoking were far more devastating than believed in 1964. Every year since 1979, the Surgeon General's office issued another report dealing with a specific aspect of smoking and health.

Robert Miles of the Harvard Business School conducted an extensive study of the responses of the cigarette industry to the threat to their legitimacy posed by these health findings. (6) Miles concluded that cigarette industry activities generally fell into three categories:

Domain Defense: The six cigarette companies attempted to defend their businesses by gaining early access to research information, lobbying and coopting the government establishment, and minimizing of regulatory control over advertising.

Domain Offense: Attempts were made to increase cigarette sales, despite health concerns, through product innovation and market segmentation.

Domain Creation: Cigarette companies attempted to protect their businesses by expanding cigarette sales into foreign markets, where health concerns had not yet begun to influence demand. At the same time, all of the cigarette companies either embarked upon aggressive diversification programs, or were themselves acquired by large conglomerates.

The cigarette companies worked cooperatively on the political front in the domain defense mode. In 1954, they collaborated on the development of the Tobacco Industry Research Committee (later changed to Tobacco Research Council). The purpose of this organization was to fund tobacco related research, and also to keep the industry informed of the latest developments in medical and scientific research on the subject. The Tobacco Research Council and its grants to medical researchers was to be a linchpin in the industry's strategy to delay substantive regulatory actions based on the argument that conclusive evidence did not exist linking cigarettes with disease, and that further evidence was needed.

In 1958, the cigarette industry formed The Tobacco Institute, which became its primary lobbying arm, and provided a single agency to deal with health-related matters. The first four presidents of The Tobacco Institute included two former congressmen, one senator, and one U.S. ambassador. The Tobacco Institute took the lead in efforts to limit the power of the Federal Trade Commission to regulate cigarette advertising, and to assure that cigarette warning regulations enacted by Congress were acceptable to the industry.



Largely in response to what they called "the health scare", cigarette advertising expenditures mounted steadily during this period and cigarettes became the most heavily advertised product in America (cigarette advertising expenditures between 1970 and 1981 are summarized in Exhibit 3). The industry also responded with a barrage of new cigarette products, many of which were designed to reduce consumer concerns about the potential hazards of smoking. Whereas in 1950, the big six tobacco companies produced a total of only 18 brands, by 1984 that number was in excess of 200 (excluding dozens of brands that were introduced but did not survive). According to Miles, "Both the nature and timing of major waves of product innovation among the Big Six were pegged closely to the major 1953 and 1962-64 institutional threats to the tobacco industry... A broad product mix enabled firms to 'squeeze out' what demand remained in the home market." (7)

In the early part of the 1980s, cigarette companies further segmented the market along price lines. At the bottom end, generics and low priced branded cigarettes were developed-- largely to keep from losing customers concerned about higher cigarette prices. Additionally, non-price competition heated up, with a number of expensive cigarette give-away and coupon programs, as well as further product innovation. One new product was the 25 cigarette package which, according to John Maxwell, the leading cigarette industry analyst, was intended to increase the daily consumption of current smokers. (8)

The domain creation strategies of the cigarette companies included moving aggressively to expand their presence in foreign markets, first by exporting cigarettes, and later by obtaining wholly-owned foreign operations. According to Miles, "It was not until the health-and-smoking scare of 1953, which depressed demand at home, that active strategies geared toward opening and expanding foreign cigarette markets were initiated." (9). Cigarette companies also moved to diversify their range of activities, in order to reduce their dependence of cigarettes, though cigarettes remained the largest source of revenues and profits for each of them.

During the early 1980s, cigarette companies faced serious challenges. As a result of increased public health concerns and higher taxes, domestic sales had fallen for three straight years, and manufacturers came under pressure to reduce prices. Nevertheless, cigarettes remained highly profitable. Median return on equity in the cigarette business for the five year period beginning in 1979 was about 25 percent higher than the median for all industries (10) By late 1984, the prospects for cigarette companies were particularly bright. Profits during that year were high, the volume slide had apparently been stemmed, and John Maxwell was projecting that 1985 would "be an excellent year for earnings." (11) (Exhibit 4 includes a market share summary of the top 20 cigarette brands in 1984).

Medical research demonstrating the pathogenicity of cigarettes resulted in dramatic changes in the public policy environment faced by the cigarette companies (these developments are described in greater

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detail below). In 1965 Congress required that a health warning be placed on all cigarette packages. In 1972 and again in 1984, the mandated warning was made more specific, and was also required to be on all cigarette advertising. In 1967, the Federal Communications Commission ruled that cigarette advertising was sufficiently controversial to warrant a requirement that stations provide time for antismoking messages, and public service ads from the American Cancer Society and other groups concerning the dangers of cigarette smoking began to appear. In 1970, Congress passed legislation to ban cigarette advertising from television and radio. In 1977, the U.S. Office on Smoking and Health was established to coordinate the government's anti-smoking program. In 1984, federal cigarette taxes were raised for the first time in 30 years.

In addition to the activities of the Federal Government, nonsmokers' rights organizations became increasingly active in the early 1980s, and were successful at achieving restrictions on public smoking in many states and localities. A new threat to the tobacco industry appeared in the form of a wave of product liability lawsuits by victims of lung cancer and other diseases allegedly caused by cigarette smoking.

## II. THE CIGARETTE INDUSTRY IN 1985

In 1984, the six large American cigarette companies sold about 600 billion cigarettes in the U.S. Record cigarette profits were recorded, and the industry was in excellent financial condition. Several companies were engaged in stock repurchase programs, and one of the most massive manufacturing investment programs ever completed by a consumer products industry was underway to modernize cigarette production facilities. Cigarette companies had diversified into other business areas, concentrating primarily on alcoholic beverages, food, and other consumer products and services.

The dominant competitive theme of cigarette marketing during the early 1980s was market segmentation. The cigarette industry, possessing highly sophisticated market research capabilities, segmented the market along age lines, by ethnic categories, by sex, and by price. Product "families" were developed, where one brand name would have multiple varieties-- with various tar and nicotine levels, in different sizes, with menthol, and in different packages. Two important developments included the introduction of generic cigarettes in 1983 and the resultant price competition, and the introduction of 25 cigarette packages in 1984.

The remainder of this section will summarize the strategies of the individual cigarette companies (See Exhibit 1 for detailed information on individual companies. Discussion of individual company strategies draws extensively from the work of Miles and Overton (12), and from company documents.)

Philip Morris: In 1950, Philip Morris was the smallest of the

major cigarette producers. In 1982, it eclipsed R.J. Reynolds as number one. The company accomplished this by following what Miles called a "Prospector" strategy. Philip Morris was an aggressive innovator. It beat the other companies to market with a low tar cigarette by four years, and in 1968 introduced Virginia Slims, accelerating competition in the women's market. It utilized creative image advertising for its number one Marlboro brand, known within the company as "The Big Red Machine" because of its cash generating power. Perhaps more than any other company, Philip Morris used packaging to enhance its cigarette marketing.

Philip Morris was the first to begin investing in foreign cigarette subsidiaries. By 1972, it had also become the leading exporter of cigarettes. In 1981, it thwarted R.J. Reynolds attempts to purchase a portion of the Rothman's International cigarette company from South Africa's Rembrandt Group by making a successful eleventh hour bid for a quarter of the company. This not only solidified Philip Morris' position in Europe, where Rothmans was strong, it also obstructed Reynolds' ambitions to expand in the international market. During the 1970s, the company acquired Miller beer and 7-Up. By 1985, the company was in the final stages of a multi-billion dollar capital development program to enhance productivity of cigarette manufacturing.

R.J. Reynolds: Miles called R.J. Reynolds the "Analyzer" because of its penchant for not taking actions until it had thoroughly evaluated moves by competitors. Between 1950 and 1974, Miles noted, Reynolds had only a 6 percent new product failure rate, as compared to a 53 percent rate for American Brands. Upon seeing the success of generic cigarettes, Reynolds resurrected its Doral brand for the low-price market. Additionally, the company began to reposition its Winston brand, whose customers were older than those of many competing brands-- notably Marlboro-- for younger smokers with an advertising theme featuring helicopter pilots and mountain climbers.

Reynolds was in the process of spending more than two billion dollars to build modern cigarette production facilities. In 1984, Reynolds divested its energy and transportation subsidiaries in order to concentrate on consumer products, including Kentucky Fried Chicken, Del Monte foods, and Heublein alcoholic beverages. Also in 1984, it embarked upon a seven million dollar advertising campaign to present its position on the issues of smoking, health, and public policy-- departing from the industry tradition of leaving this work to The Tobacco Institute (See Exhibit 5). Like Philip Morris, Reynolds owned and licensed cigarette production facilities around the world.

Brown & Williamson: Brown & Williamson, the U.S.' third largest cigarette seller, was owned by BATUS, the American subsidiary of BAT, the British cigarette company. BAT, the free world's largest seller of cigarettes, was Britain's third-largest corporation. In the early 1980s, B&W began to compete more aggressively, with a major capital development program aimed at making B&W the industry's most efficient producer, and with a number of product introductions. The company had spent more than \$150 million to introduce its Barclay cigarette brand, and was trying to make it a major brand in the international market. B&W also moved into the generic market to compete with Liggett, and

had introduced a "full-flavor" (high tar and nicotine) unfiltered cigarette, targeted at young males, using the mythical cowboy outlaw Eli Cutter for an advertising image.

**Lorillard:** During the 1960s, Lorillard did not respond quickly to changes in the marketplace-- particularly the trend towards low tar cigarettes-- and was slow at diversification. In 1968, it was swallowed by the much smaller Loews Theater company. Subsequently, the company moved aggressively into the low tar cigarette market. In 1983, Lorillard's flagship brand Newport was the fastest growing cigarette in the U.S. Lorillard did not compete in the low-price or generic markets with Brown & Williamson and Liggett. The company also did not export its cigarettes directly, but rather licensed its brands to larger companies, which then manufactured and exported them.

**American Brands:** Once the number one cigarette company, American Brands had fallen far since the halcyon days of George Washington Hill. In 1985, it was the only American company with a greater volume of sales abroad than domestically. The company had diversified into other packaged consumer goods and financial services, and cigarettes accounted for slightly more than half of its revenues and profits. It was the largest producer of nonfilter cigarettes. Miles called American Brands the "Defender", suggesting that its conservatism in entering the filter and subsequently the low-tar markets resulted in its decline.

As a condition of the 1911 dissolution of the American tobacco monopoly, Britain's BAT (now parent of Brown & Williamson) was given international distribution rights to all of American Brands existing cigarette brands. As a result, the company was slow moving into the international market. In 1974, it completed its acquisition of the British cigarette company Gallahers, which in 1984 accounted for virtually all of American Brands' international cigarette sales.

**Liggett:** The smallest of the big six, Liggett was owned by Grand Metropolitan of Great Britain. It was characterized by Miles as being a "Reactor"-- not really having a strategy, but reacting to events as they occurred. During the early 1980s, its traditional brands having suffered serious market declines (between 1960 and 1979, unit sales fell from 51.2 billion to 16.5 billion), Liggett embarked upon a major push into generic cigarettes, sparking a wave of price competition. It supported the push with major product give-away programs and distributor promotions. By 1984, the price competition in this segment was beginning to depress profits for the company. Like Lorillard, Liggett did not directly export its cigarettes, instead licensing its brands to larger companies.

### III. CIGARETTES AND HEALTH ISSUES

#### The Issue of Causation

To understand public policy and corporate strategy issues involved in cigarette marketing, it is necessary to examine the evidence linking tobacco use with disease causation. Health- related

issues largely determined the nature of public policy toward cigarettes, the tactics of anti-smoking groups, and the marketing and business development strategies of cigarette companies. While by 1985 there was virtually unanimous consensus within the medical establishment that cigarettes caused disease (see Exhibit 6), the cigarette industry maintained-- as it had since 1954-- that the research to date was insufficient to warrant a conclusion that cigarettes were a causal agent for any of the diseases attributed to them, and that further regulation of cigarette marketing should therefore be resisted.

Allegations that tobacco use causes disease were almost as old as use of the plant itself. In 1761, an English physician noted several cases of cancer of the nose, which he attributed to snuff use. In 1849, a Boston surgeon who had made a 20 year survey of his patients with cancer of the mouth found that most were tobacco users, and that the cancer typically occurred on the side of the mouth where the tobacco was held. A French study of 68 oral cancer patients in 1859 found that 66 were smokers and one chewed tobacco, and that the cancer usually occurred at the spot where the pipe or cigar was held. (13)

It was not until the twentieth century, however, that rigorous scientific studies began to link tobacco use with disease. As summarized in Table 1, it was estimated by the U.S. Surgeon General that cigarettes caused approximately 350,000 premature deaths due to cancer, heart disease, and chronic obstructive lung disease each year.

TABLE 1

ESTIMATED ANNUAL CIGARETTE-RELATED DEATHS IN THE U.S.

CAUSE	NUMBER
CANCER.....	130,000
HEART DISEASE.....	170,000
CHRONIC LUNG DISEASE.....	<u>50,000</u>
TOTAL.....	350,000 <u>-----</u>

Source: Surgeon General's Reports, 1982, 1983, and 1984

The industry's basic position concerning health was that cigarettes had not been definitively proven to cause disease. Walker Merryman, Vice President of The Tobacco Institute, discussed the research with the casewriter in his Washington D.C. office. According to Merryman, the statistical associations which had been found between cigarette smoking and higher levels of certain diseases did not necessarily demonstrate a cause-and-effect relationship:

No one in the industry says that cigarettes aren't harmful. At this point, there just isn't sufficient evidence to prove that

they are harmful, and more research is needed. However, public opinion polls show clearly that the public has been adequately informed about any possible health hazards. The Surgeon General's warning is obviously a part of that, as is the attention given to the controversy by the media.

According to Dr. Alan Blum, Editor of the New York State Journal of Medicine and founder of Doctors Ought To Care (DOC), a leading anti-smoking organization, tobacco industry claims that the medical case against cigarettes was unproven were a diversionary tactic. Speaking with the casewriter, Dr. Blum said:

The question of whether or not cigarettes should be more strictly regulated is no longer a medical question-- that was resolved more than thirty years ago-- now it is a political issue. We have more evidence to prove that cigarettes cause cancer and heart disease than we have concerning the cause of virtually any other disease entity. The tobacco industry is the only one trying to maintain the illusion of a controversy while it attempts to achieve its goal of unrestricted marketing freedom through the political process.

### Cancer

According to the 1982 Surgeon General's report on cancer, approximately 30 percent of all cancers in this country were caused by tobacco use. (14) Table 1 summarizes the Surgeon General's estimates of tobacco's contribution to various types of cancer.

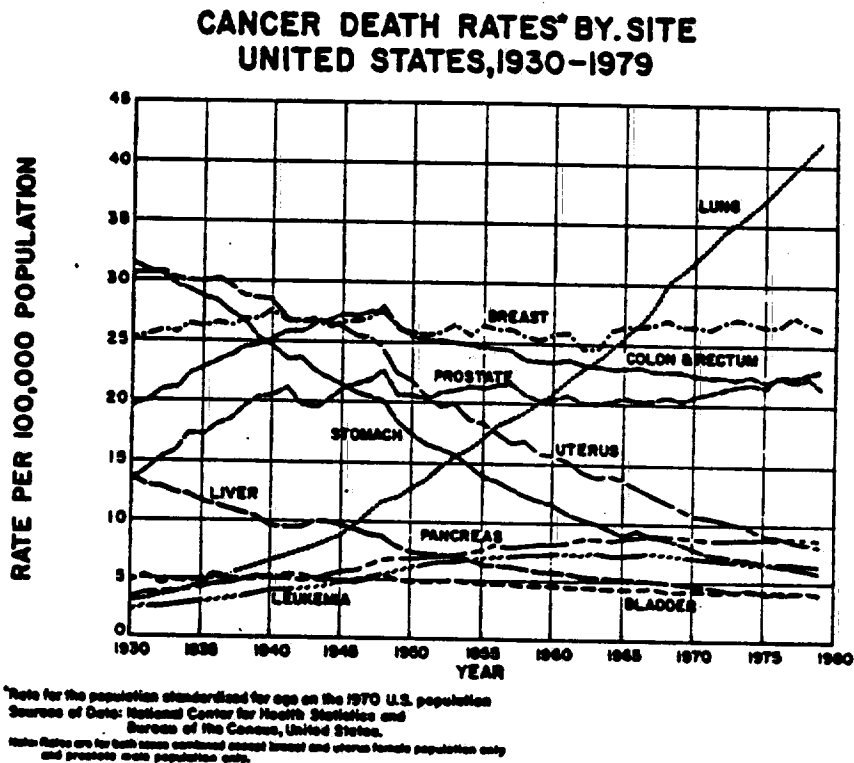
TABLE 2  
ESTIMATED CIGARETTE-RELATED CANCER DEATHS, 1982

TYPE OF CANCER	1982 DEATHS	TOBACCO RELATED (%)	TOBACCO RELATED (#)
LUNG.....	111,000	85	94,350
LARYNX & ORAL CAVITY...	13,000	50-70	7,800
ESOPHAGUS.....	8,300	50+	4,150
BLADDER & KIDNEY.....	50,000	30-40	17,500
PANCREAS.....	22,000	30	6,600
	-----		-----
TOTALS.....	204,300		130,400
	=====		=====

Source: U.S. Dept. of Health and Human Services, The Health Consequences of Smoking: Cancer, 1982 (right hand column calculated by casewriter using average figures in middle column)

At the turn of the century, lung cancer was an exceedingly rare disease, and as late as 1935, there were only about 4,000 lung cancer deaths in the U.S. By 1984, there were an estimated 139,000 new cases of lung cancer, and 121,000 deaths. Lung cancer had been the leading cause of cancer death among American men ever since the early 1950s. Whereas in the early 50s, lung cancer was ranked as the seventh leading cause of cancer death among women, the incidence began to rise alarmingly in the late 1960s, and by the mid-1980s, lung cancer had surpassed breast cancer as the leading cause of cancer death in women. (14) Figure 1 shows the marked rise in lung cancer incidence when compared with downward or steady trends in the incidence of other types of cancer.

FIGURE 1  
CANCER DEATH RATES BY SITE, U.S., 1930-1979



Source: American Cancer Society

The Surgeon General's report concluded that a dose-response relationship existed between cigarette smoking and lung cancer. In other words, the more one smoked, the higher the likelihood of developing lung cancer. For heavy smokers (two or more packs per day), the lung cancer rate was found to be 15 to 25 times as high as that for nonsmokers. The earlier one initiated the habit, and the more deeply one inhaled, the higher was the likelihood of developing

lung cancer. The report also stated that quitting smoking reduced the risk of lung cancer, so that by 15 years after cessation, the risk was only about double that of nonsmokers.

According to one comprehensive review of the literature, there were several types of studies which showed that cigarette smoking was the primary cause of lung cancer:

Without exception, epidemiological studies have demonstrated a consistent association between smoking and lung cancer in men, and now suggest a similar association in women. Chemical analyses of cigarette smoke reveal a multitude of known mutagens and carcinogens. Moreover, these chemicals are absorbed, are metabolized, and cause genetic changes in smokers.... Once an unambiguous statistical association was established between smoking and lung cancer, investigators began to ask which substances in cigarette smoke are carcinogenic and how they transform normal cells into malignant cells.... The answers to these questions have provided experimental evidence linking cigarette smoke with cancer, as well as providing new methodologies by which to identify and quantitate carcinogens in tobacco smoke. (15)

Lung cancer was one of the deadliest forms of cancer. Overall 5-year survival rates for patients with lung cancer were among the lowest of any type of cancer (fewer than ten percent survived beyond five years), and survival rates "have not improved appreciably over the past 2 to 3 decades despite new techniques of surgery, chemotherapy, and radiation therapy." (16)

In addition to stating that cigarettes were the primary cause of lung cancer, the Surgeon General's report concluded that cigarette smoking was the leading cause of laryngeal, oral cavity and esophageal cancer, and that pipe and cigar smokers (who did not typically inhale) had risks of upper respiratory tract cancer similar to those of cigarette smokers. There was also a demonstrated dose-response relationship between cigarette smoking and these cancers, and the risk diminished with time after quitting. Alcohol was found to act synergistically with tobacco in causing these cancers. Smokeless tobacco was also found to be a factor in cancer of the cheek and gum.

The Surgeon General also concluded that cigarette smoking was a contributory factor in the causation of bladder, kidney, and pancreatic cancer, and that it might be a factor in causing stomach and uterine cancer. Cigarette smoking was also shown to act synergistically with industrial workplace hazards in causing lung cancer. For example, epidemiological studies indicated that asbestos workers who smoked had a risk of lung cancer 8 times higher than that faced by asbestos workers who did not smoke, and 92 times higher than that faced by nonsmokers not exposed to asbestos.

The tobacco industry believed there were significant problems with the research linking smoking with cancer. James Bowling, former Senior Vice President of Philip Morris, and now a consultant to the company, had been dealing with these issues for a long time. He



believed the cigarette industry had been unfairly maligned, and that the government and anti-smoking organizations had improperly accepted as fact a causal relationship between smoking and disease which he stated was still just a theory. In addition to his concerns with using statistical associations to identify cause-and-effect relationships, Bowling discussed various animal studies designed to study whether cigarettes caused cancer:

One of the problems with the research to date is that there has never been any credible experimental evidence demonstrating the production of tumors or carcinoma. Some studies have been reported, but on closer inspection, these studies have been seriously flawed and have not shown that cigarette smoke can produce tumors in animals.

### Cardiovascular Disease

The 1983 Surgeon General's report on smoking and health estimated that the death rates from coronary heart disease for smokers were 70 percent higher than for nonsmokers, and that 30 percent of all coronary heart disease deaths-- about 170,000 per year-- could be attributed to cigarette smoking. (17) The report found that smokers ran a risk two to four times as great of dying from sudden cardiac death as nonsmokers, and that there was a dose-response relationship evident in the risk pattern.

The report also linked cigarette smoking with a higher incidence of stroke and peripheral vascular disease. It noted that women who smoked and used birth control pills had a risk of dying of heart attacks ten times that of women who did neither. The report concluded that quitting smoking reduced the risk of dying of a heart attack to normal levels in a relatively brief period.

The Framingham Heart Study, the longest running and most comprehensive ongoing study of the risk factors associated with heart disease, first identified cigarette smoking as a significant cause of coronary heart disease. According to Dr. William P. Castelli, the study's director, moderate smokers ran a risk of dying of heart disease twice that of nonsmokers. Paradoxically, the risk heavy smokers had of dying of heart disease was about the same as nonsmokers. According to Dr. Castelli, "that's because they died of lung cancer first." The Framingham study also showed that, while smoking filter-tipped cigarettes reduced the risk of lung cancer by about 20 percent, it did not change the risk of heart disease. (18)

The cigarette industry disputed whether the linkage between cigarettes and heart disease had been proven. In a full-page advertisement in the New York Times in March, 1985, the R.J. Reynolds Tobacco Company reviewed the results of a Multiple Risk Factor Intervention Trial (MR FIT), which it said did not show a statistically significant difference in heart disease incidence between smokers and nonsmokers (See Exhibit 5). The ad concluded:

We at R.J. Reynolds do not claim this study proves that smoking

doesn't cause heart disease. But we do wish to make a point. Despite the results of MR FIT and other experiments like it, many scientists have not abandoned or modified their original theory, or re-examined its assumptions. They continue to believe these factors cause heart disease. But it is important to label their belief accurately. It is an opinion. A judgement. But not scientific fact. (emphasis in original)

### Chronic Obstructive Lung Disease

The 1984 Surgeon General's report on The health Consequences of Smoking covered chronic obstructive lung disease (COLD). (19) The report concluded that in 1983 about 60,000 Americans died of COLD, primarily emphysema, chronic bronchitis, and related conditions. Approximately 50,000 (85 percent) of these deaths were attributed to cigarette smoking. The report stated that heavy cigarette smokers were as much as 30 times as likely to suffer chronic obstructive lung diseases as nonsmokers. It found a dose-response relationship, meaning that the more one smoked, the earlier one started, and the more deeply one inhaled, the higher the risk of death from COLD.

Although quitting smoking was found to reduce deterioration of a COLD victims lung function, it was not possible to restore the lung to its earlier functionality. Unfortunately, in many cases the disease was quite advanced before the victim could determine that he or she had more than just a "smoker's cough". The report also concluded that children of parents who smoked were at higher risk of bronchitis and pneumonia early in life, and had a small but measureable impairment in lung growth.

The cigarette industry again responded that a causal linkage had not been demonstrated between smoking and COLD. A Tobacco Institute publication concluded that there were "major gaps" in medical knowledge concerning COLD:

The tobacco industry has not agreed with the judgement of the Surgeon General's report that cigarette smoking has been established as a cause of chronic bronchitis. A causal relationship between smoking and either chronic bronchitis or emphysema has not been established scientifically. Statistical correlation does not establish cause. It never has. (20)

### Addiction

In March, 1982, the U.S. Department of Health and Human Services released a short document based upon Congressional testimony of Dr. William Pollin, Director of the National Institute on Drug Abuse (NIDA), entitled "Why People Smoke Cigarettes". This document had an impact far out of proportion with its length. It concluded that cigarette smoking was addictive, and "the most widespread example of drug dependence in our country." Like other drugs of abuse, the report concluded, cigarettes were psychoactive, created dependence and led to compulsive use, created physiological and psychological

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distress when stopped abruptly, and engendered a strong tendency for former users to relapse. (21)

Dr. Jack Henningfield, a researcher at the Addiction Research Center of NIDA, conducted studies in nicotine addiction (nicotine was commonly believed to be the substance in cigarettes which creates user dependence). As he showed the casewriter one of his experiments, in which the addictive qualities of nicotine were evaluated in a study that allowed cigarette smokers to self-administer nicotine or a placebo from IV catheters in each arm, Dr. Henningfield said:

The whole concept of addiction has evolved rapidly in recent years. It used to be associated only with physical dependence and physiological withdrawal symptoms. That concept, however, is just too limiting. The distinction between physical and psychological addiction doesn't hold the meaning it once did. Today, we have a different understanding of physical withdrawal. First, drugs like cocaine, valium, and nicotine produce compulsive behavior without necessarily causing serious physical withdrawal symptoms. This compulsive behavior is clearly consistent with substance addiction. Second, even among those drugs that produce withdrawal symptoms, not everyone becomes addicted. In short, physiologic dependence is neither a necessary nor sufficient condition to demonstrate addiction.

There is no longer any question that nicotine is an addictive substance. It meets all of the accepted criteria for addiction. By way of comparison, only one in ten alcohol users and four-to-six in ten morphine users are compulsive daily users. Contrast these figures to the nine in ten cigarette smokers who are compulsive daily users. Look at it another way. Eighty to ninety percent of cigarette smokers know that cigarette smoking is dangerous, that the habit may harm their families, that expensive medical care may ultimately be required, and would like to quit. And they try. They go on quitting and quitting, but are unable to. Now that's addiction!

Merryman of The Tobacco Institute argues that cigarettes are not necessarily addictive in the scientific sense:

People regularly misuse the word 'addiction'-- in much the same way as the term 'allergy' is misused. People tend to use the term colloquially, as in 'I'm addicted to chocolate'. This usage has confused the proper scientific definition of the term. We just don't know at this point if anything in cigarettes is addictive. However, a number of factors pose questions. For example, over the past twenty years, a reported 33 million people have quit smoking-- 90 percent of them on their own. This is not a phenomenon characteristic of addiction. People who are addicted to alcohol, heroin, or barbituates do not stop on their own in such large numbers. Additionally, cigarettes do not produce an increased tolerance effect like heroin and alcohol do, where the body becomes more tolerant to the substance and requires more to achieve the same effect.

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Some smokers may enjoy one cigarette per week, and others a pack or two per day. Still others smoke only occasionally. These customs are not characteristic of an addictive substance.

Regardless of whether cigarette smoking was addictive in the scientific sense of the word, it spawned a whole new industry for smoking cessation. Clinics sprang up around the country, using techniques ranging from hypnosis and acupuncture to making participants smoke so many cigarettes that they became physically ill. Additionally, new drugs were developed to help smokers break their nicotine dependence. First year sales for Merrell-Dow's Nicorette chewing gum, a prescription drug designed to help people stop smoking, exceeded \$40 million, twice the projected level, and other companies were developing similar drugs. (22)

### Maternal Smoking

The 1980 Surgeon General's report dealt with the health implications of smoking for women. Among other things, it reviewed studies showing that babies born to smoking mothers weighed less than those born to nonsmokers, and that the amount of the deficiency was directly related to the mother's smoking level. The weight reduction was shown to result from a decrease in all body dimensions, and was not related to nutrition or other variables. The report concluded that maternal smoking during pregnancy could adversely affect a child's long-term growth, intellectual development, and behavioral characteristics, and created a greater risk of miscarriage and sudden infant death syndrome. It also concluded that children of smoking mothers suffered more respiratory diseases than children of nonsmokers. (23)

The tobacco industry disputed the evidence linking smoking with fetal damage. A publication by The Tobacco Institute summarized the industry's position as follows:

After two decades of denouncing smoking and claiming 'proof' that cigarettes cause various diseases and disorders in men, anti-smoking organizations have in recent years launched special campaigns to persuade women that they, too, are adversely affected by cigarettes. Their alarms usually begin with the charge that the woman who smokes in pregnancy may harm her infant... The reported importance of previous pregnancy history and hospital pay status strongly indicate that a mother's pregnancy experience may well be determined by who the mother is-- her constitution or innate characteristics-- rather than whether or not she smokes. The complexity of all these findings and the areas to which the data point for further research seem strikingly inconsistent with the unswerving and exclusive emphasis on the mother's smoking habits. (24)

## Passive Smoking

The question of whether the smoke from someone else's cigarette was harmful to the nonsmoker (called "passive smoking" or "involuntary smoking") was one of the most controversial topics in the smoking arena during the early 1980s. Sidestream smoke (that which comes off the end of the cigarette) contained many of the suspected carcinogens found in mainstream smoke, and was not filtered. On the other hand, it was considerably cooler and more diluted by the air than mainstream smoke inhaled directly by the smoker.

One of the leading experts on the health risks of passive smoking was James L. Repace, a physicist and policy analyst at the U.S. Environmental Protection Agency. When he was interviewed by the casewriter, the New York Times had just published a story summarizing a study by Repace and a colleague reporting that between 500 and 5,000-- Repace believed it to be closer to the higher figure-- nonsmoking Americans died each year of lung cancer caused by other people's cigarette smoke, making tobacco smoke "the country's most dangerous airborne carcinogen." (25) Referring to his studies, Repace told the casewriter:

The evidence that cigarette smoke is harmful is absolutely overwhelming. We know more about the risks of smoking than we do about virtually any other disease causing substance. We regulate other carcinogens in this country on the basis of far less evidence than we currently have proving that passive smoking is dangerous to the nonsmoker. There can be no question that passive smoking causes lung cancer. The only question is how much, and I think that we have pretty well answered that.

The Tobacco Institute's Merryman disagreed with Repace's assessment. He did not think that passive smoking was a health issue, but rather that it had been siezed upon by anti-smoking groups to politicize their movement:

There is no credible evidence that tobacco smoke in the air is a serious threat to the health of nonsmokers. For the past ten years, some of our adversaries have tried to make claims about the effect of tobacco smoke in the air and have had those claims challenged by independent scientific experts. Still, this remains a controversial subject. We have faced, in 1984, some 400 pieces of state and local legislation, a vast majority of which deal with this issue.

One of the advocacy advertisements by R.J. Reynolds reviewed the results of a study that did not find a significant correlation between passive smoking and lung cancer, and concluded that "there is little evidence- and certainly nothing that proves scientifically- that cigarette smoke causes disease in nonsmokers." (Exhibit 5)

## Less Hazardous Cigarettes

Ever since evidence began to accumulate that cigarettes cause disease, there was interest in reducing the risk of smoking by designing "safer" cigarettes-- in realization of the fact that many people would continue to smoke regardless of the risk. During the 1950s, cigarette companies introduced filtered cigarettes. In the seventies, cigarettes with lower tar and nicotine delivery were developed. Many of these cigarettes did not actually change the content of tar and nicotine in the cigarette, but rather reduced it through the filtration process. If smokers puffed more frequently, inhaled more deeply, or smoked more often, they could still receive high levels of tar and nicotine. Additionally, as tar levels were reduced, affecting the flavor of the cigarette, a number of flavor-enhancing chemicals were added, some of which were themselves suspected carcinogens. (27) Approximately 90 percent of all cigarettes sold in 1984 were filtered, and about 60 percent were "low tar". (Exhibit 7) The cigarette companies maintained that they were not developing these new cigarettes because they believed the old ones to be harmful, but simply in response to market demand.

The 1981 Surgeon General's report dealt with the changing cigarette. The report concluded that lower tar and nicotine cigarettes could reduce the risk of lung cancer, but smokers of low tar and nicotine cigarettes still had "much higher lung cancer incidence and mortality than do nonsmokers." There was no solid evidence that smoking low tar and nicotine cigarettes reduced the risk of coronary heart disease, chronic obstructive lung disease, or danger to either the mother or fetus during pregnancy. The report concluded: "The health risks of cigarette smoking can only be eliminated by quitting. For those who continue to smoke, some risk reduction may result from a switch to lower 'tar' and nicotine cigarettes, provided that no compensatory changes in style of smoking occur." (27)

#### Fire Danger and Burn Injuries

According to the U.S. Government's Consumer Product Safety Commission, in 1982 careless handling of cigarettes caused 56,400 residential fires in which 1,730 people were killed (35 percent of all residential fire deaths that year), and another 6,470 were seriously burned. (28) Critics charged that chemicals added to cigarettes to keep them burning if not puffed frequently enough caused many of these fires.

#### IV. PUBLIC POLICY TOWARDS THE CIGARETTE INDUSTRY

Controversy over the proper public response to cigarette-related health issues built gradually during the 1960s and 70s. During the early eighties, however, public debate accelerated sharply. This section will review the issues that seemed likely to dominate the balance of the decade, including: 1) taxation of cigarettes; 2)

agricultural price supports for tobacco; 3) warnings and disclosure of health risks; 4) proposed requirements to make cigarettes more fire safe; 5) the nonsmokers' rights movement and restrictions on smoking in public places; 6) calls for restrictions on cigarette advertising and promotion; 7) cigarette company marketing efforts in Third World countries; 8) product liability lawsuits brought against cigarette companies by victims of cigarette-related diseases; and 9) public perception of the cigarette industry.

The economics of tobacco significantly influenced public policy toward smoking. Tobacco was the fifth largest cash crop in the U.S. in 1984, and a major source of economic support in at least seven states. According to a study by the Wharton Applied Research Center, in 1979 \$21.3 billion was spent in this country on tobacco products, and the total contribution of tobacco to the economy was \$57.6 billion. Tobacco resulted in direct federal, state and local tax revenues of \$13 billion. The report estimated that the tobacco industry directly employed some 429,000 people, and was indirectly responsible for the employment of another 1.6 million. (29)

The Wharton study did not consider the costs to society associated with cigarette smoking. One such calculation appeared in a study by Kenneth Warner, Professor and Chairman of the University of Michigan Department of Health Planning and Administration, who estimated that the economic costs of cigarette smoking in 1984 were \$21 billion in medical care-- more than seven percent of the nation's total direct health care costs-- and \$33 billion in productivity loss due to morbidity, disability, and early death of cigarette smokers. (30)

### Taxation of Cigarettes

Tobacco was one of the first goods to be taxed by the U.S. government after independence. For the previous 160 years, it had been taxed by the British. The tobacco tax was a chief source of government revenue between the end of the Civil War and 1913, when the income tax was enacted. In 1983, the tax on cigarettes was doubled from 8 cents to 16 cents-- the first increase in the cigarette tax in 30 years. The bill raising the tax contained a sunset provision to reduce the tax back to the earlier level in October, 1985. In addition to the federal tax, all states taxed cigarettes, ranging from a low of 2 cents per pack in North Carolina to a high of 25 cents in Wisconsin. Some municipalities also taxed cigarettes. State and federal taxes in 1983 accounted for approximately one-third of the cost of a package of cigarettes sold in the U.S. (31)

An important side effect of cigarette taxation was that many governments grew dependent on cigarette tax revenues. This placed them in a difficult position with regard to health initiatives designed to reduce smoking levels, and thereby reduce cigarette tax revenue. According to Peter Taylor, producer of the anti-smoking film "Death in the West", governments around the world became "addicted to" cigarette tax revenues and as a result acted more to protect the tobacco industry than public health. He noted that in Great Britain, cigarette taxes were the government's third largest source of revenue, while in

Brazil they constituted 10 percent of all government revenue. (32)

The appropriate level at which to place cigarette taxes was seen by many of those interviewed by the casewriter as the single most important public policy issue in 1985. According to The Tobacco Institute's Merryman:

Taxes will be the most important issue we face in 1985. The federal government doubled the excise tax on cigarettes in January, 1983, with a sunset provision to rescind the increase in October, 1985. The states are unhappy with the increase because it was the first in 30 years, so they naturally assumed that cigarette taxes were reserved for them. State taxes increased by an average of 350 percent over the period of time when federal taxes were not raised. As a result of the federal and state tax increases cigarette sales fell by five percent in 1983, which meant lower than anticipated cigarette tax revenue in some states. Some of the hardest hit were those already suffering from recession. Some of those states resorted to raising their own cigarette taxes in response to the revenue shortfall.

Our priorities in 1985 will be first, to assure that the federal tax is lowered as scheduled in 1985, and second, to fight attempts by states to raise their taxes to make up for the decline in the federal tax rate.

The Coalition on Smoking or Health, a coordinating body for the American Cancer Society, American Heart Association, and American Lung Association, was not planning to simply fight to prevent the scheduled reduction of the cigarette excise tax, but rather for a substantial increase in the tax. The Coalition's Neumeyer told the casewriter:

Cigarette smoking costs billions of dollars every year in Medicare expenditures alone. It is unfair for the taxpayers of this country to have to subsidize smokers' health care costs. We would like to see cigarette taxes raised substantially, with revenues used to help offset the societal costs imposed by tobacco. This could include earmarking a portion of the tax for Medicare, providing revenue sharing to the states, or establishing a fund to help tobacco farmers make a transition to more socially worthwhile crops.

Michigan's Warner argued that cigarette taxation was a means of "doing well by doing good". Warner estimated that for adults, the elasticity of demand for cigarettes was -0.42, meaning that for every 10 percent rise in price, there would be a 4.2 percent reduction in consumption. For teenagers experimenting with smoking, however, the elasticity of demand was -1.4, meaning that for every 10 percent rise in the price of cigarettes, there would be a 14 percent decline in teenage consumption. Most of this decline would take the form of young people either quitting or deciding not to start smoking because of the higher cost. (33)

In January of 1985, The Secretary of Health and Human Services, Margaret Heckler, proposed that the federal excise tax on cigarettes



not be reduced, and that revenues be earmarked for Medicare, the federal program to provide health care for the elderly. President Reagan was thought to be receptive to the idea. The New York Times editorialized:

When the tax went up to 16 cents in 1983, cigarette consumption went down 5 percent-- primarily because teen-agers who might otherwise have started smoking chose not to. The price of cigarettes has little effect on people who already smoke, but it does discourage kids from following this particular rite of passage. That's one good reason to keep the tax at 16 cents.... Heckler... has another. [She] would like to see roughly half the cigarette tax revenue, or about \$2 billion yearly, go to Medicare's hospital and insurance trust fund, which is expected to run out of money by 1994. There could be no more fitting depository. (34)

The tobacco industry responded that an earmarked tax would be inappropriate for several reasons. These were summarized in a Tobacco Institute publication:

- Earmarking is unsound tax policy. It forces one group of consumers-- smokers-- to pay for services that are used by all. It gives nonsmokers a free ride while smokers pay extra taxes with no extra benefits.
- Earmarking, claim proponents, is a way of making smokers pay a 'fair share'. This claim does not stand up under scientific analysis, however. A 1983 review of the literature on smoking and medical care spending concluded that lifetime expenditures are probably higher for nonsmokers than for smokers and that smoking does not necessarily increase medical care expenditures. [studies on this point not cited-- casewriter]
- Basing financial policy on so-called luxury taxes is folly. Sooner or later smokers, drinkers, bettors will find themselves too sinned against.
- Specific taxes can't raise adequate sums forever. They reduce consumption and cut into existing state revenues. Legislators are still left with a revenue problem-- and no more sinners left to tax. (35)

#### Agricultural Price Supports for Tobacco

Like most other farmers, tobacco growers were hard hit during the depression, which for them started in the 1920s. There was a chronic tendency to overproduce, and farmers had little ability to adjust supply and demand, in part because of the great power of cigarette manufacturers. In 1938, the Agricultural Adjustment Act (as amended to resolve constitutional issues in the 1933 law thrown out by the U.S. Supreme Court) established a program to restrict the supply of tobacco in order to keep prices above the open market level without having to resort to outright subsidies.

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Under this program, tobacco acreage allotments and poundage quotas were allocated to individual farms based upon production levels during the 1930s. A national production quota was established every three years, voted on by the holders of tobacco allotments. A price support level was established: tobacco not sold at auction for at least one cent per pound above the price support level was purchased by farmer-owned stabilization cooperatives using money advanced by the government's Commodity Credit Corporation. The tobacco was then stored in warehouses to be sold at a later time, presumably when prices were higher. Proceeds would be used to pay interest and principal on the federal loan. If there was a net loss from a given year's crop, it would be borne by the government. (36) The government's cost for this program in 1984 was \$60 million.

The tobacco program, unlike many other farm programs, allotted production rights to individual farms based on 1933 acreage, which served to restrict new entrants. By 1982, only 40 percent of tobacco acreage allotments were actually owned by farmers; the remainder were owned by absentee landlord who rented the land to farmers. (37)

Tobacco price supports historically had been established at levels high enough to assure farmers greater profits than they could realize from any other crop. They also maintained U.S. prices at levels higher than world market prices, subjecting American farmers to intense foreign competition; much of this competition was from developing nations that received substantial assistance from the cigarette companies in establishing their own tobacco agriculture programs. By 1984, foreign tobacco accounted for one-third of that used in the production of domestic cigarettes (38), while a huge inventory of 1.4 billion pounds of domestic tobacco accumulated in cooperative warehouses, threatening the very existence of the price support program (39).

In addition to domestic price supports, tobacco exports were, for many years, subsidized under several programs, including Food For Peace. Between 1970 and 1980, tobacco exports nearly tripled, partly as a result of these programs. In 1980, tobacco was removed from the Food for Peace program. A program of loan guarantees to commercial lenders who financed tobacco exports was substituted in its place.

The irony of having the government support tobacco cultivation with one hand, while trying to discourage tobacco consumption with the other, was repeatedly pointed out by anti-smoking groups. Anti-smoking legislators had for several years introduced bills to eliminate tobacco price supports. There was, however, a degree of ambivalence in their feeling about the program, for although it supported the interests of the cigarette industry by assuring a stable source of supply, it also resulted in keeping tobacco prices higher and supply lower than might have been under a completely open market system (although tobacco purchases accounted for less than 10 percent of the total cost of each cigarette). Despite the fact that elimination of tobacco price supports would have benefitted cigarette manufacturers by lowering their costs, they generally supported tobacco farmers on the issue in order to maintain their political alliance.

In 1985, it appeared that an unlikely coalition of anti-smoking activists, tobacco farmers dissatisfied with the program, and fiscal conservatives might imperil the tobacco price support program. Anti-smoking activists argued that government financial support for tobacco cultivation-- which each year cost more than the government spent on smoking and health programs-- should be ended for public health reasons. Some farmers favored ending the program because the inventory overhang was hurting their profits. Fiscal conservatives wanted the program eliminated for reasons described in a Wall Street Journal editorial:

There is no excuse whatever for subsidizing the tobacco grower, even accepting for the purpose of debate that there is a good excuse for agricultural subsidies to begin with. To head off one objection from the Tobacco Institute: We use 'subsidy' in its correct economic sense. Restricting the entry of competitors by 'allotments' is a subsidy, as are barriers against imported tobacco. The government maintains a whole structure supporting tobacco growing, and in recent years it has become more and more grotesque. When the program produced an oversupply of tobacco and forced prices down, the government responded by increasing the costs of allotments, turning the whole program into a prop for absentee landlords. (40)

The tobacco industry argued that the tobacco price support program was not a subsidy, and that it should be continued. A Tobacco Institute publication outlined the following arguments for continuing tobacco price supports:

- The program was not a subsidy, but rather a loan program.
- The program was designed to allow farmers a reasonable return their investments.
- It was stated that the program resulted in no net additional cost to the government.
- The publication quoted Surgeon General Everett Koop and former Federal Trade Commission Director Michael Pertschuk, both considered to be opponents of the tobacco industry, as saying that price supports were desirable because they restricted supply and maintained prices at higher levels than the market would. (41)

#### Warnings and Disclosure of Health Risks

As evidence accumulated that cigarettes were harmful, political pressure began to mount for federally mandated warnings on products. The industry was able to fend these off for many years, but in the wake of the Surgeon General's report of 1964, mandated warnings were finally imposed in 1965. A warning was required on all packages, but not on advertising, reading "Caution: Cigarette Smoking May Be Hazardous To Your Health."

In large measure, Congressional action on the matter was intended to head off proposed regulations of the Federal Trade Commission that would have required the warning "Cigarette Smoking is Dangerous to Health and May Cause Death From Cancer and Other Diseases" on all packages and advertising (which would have been devastating to television advertising). A. Lee Fritschler contended in his book Smoking and Politics, that this legislation was really a victory for the cigarette industry: "Cigarette legislation passed in 1965 was of dubious value to the public; it contained a mild health warning requirement for packages, but prohibited government agencies from imposing other health rules on cigarette advertising or labeling." (42)

In 1969, the FTC proposed that the warning label be changed to read "Warning: Cigarette Smoking Is Dangerous To Health and May Cause Death From Cancer, Coronary Heart Disease, Chronic Bronchitis, Pulmonary Emphysema, and Other Diseases." In 1972, Congress diluted this to read "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health". That same year, as a result of a consent agreement with the FTC, the cigarette companies began including this warning in their advertising (broadcast advertising had earlier been banned), as well as on packages.

Requirements for health warnings remained unchanged for the next 14 years. In 1981, the Federal Trade Commission submitted a report to Congress stating that the existing health warning was ineffective, and that cigarette advertising was deceptive because it made cigarette smoking appear to be consistent with good health. It recommended that the warning be increased in size, and the content be replaced with a series of specific health warnings on a rotational basis. (43) In 1982, legislation was introduced to accomplish this, but the bill was not reported from committee.

In 1983, legislation was again introduced to require rotating health warnings. This time, the bill was passed, albeit with some changes, including: 1) deletion of a congressional findings section which tobacco industry representatives complained would have formalized as government policy what they perceived as a scientific controversy; 2) removal of the words "death", "miscarriage", and "addictive" from the warnings; 3) elimination of a clause requiring cigarette companies to provide the government with lists of chemical additives in their products (although an agreement was reached whereby some ingredients were reported voluntarily, on condition that they not be made public); and 4) elimination of a clause that would have required warning labels on cigarettes exported to other countries. The specific labels mandated by the legislation were:

**SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.**

**SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risk To Your Health.**

**SURGEON GENERAL'S WARNING: Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth And Low Birth Weight.**

**SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.**

According to a number of individuals interviewed by the casewriter, the 1984 legislation marked the first time that the various health and antismoking groups were able to present a united front on a smoking-related issue. As a result, E. Ripley Forbes, a staff member for the Congressional Health Subcommittee, told the casewriter, "This bill is a lot tougher than the industry wanted."

The fight for tougher labels was led by the Coalition on Smoking or Health. David Neumeyer, the Coalition's Associate Director, explained the political process to the casewriter:

The warning labels which will be required as a result of this law will be much more effective than those currently in use. Unfortunately, in order to get the stronger warnings, several compromises had to be made along the way. Provisions to include a reference to addiction in one of the rotating labels and a requirement that health warning labels be placed upon exported cigarettes were dropped as a result of compromises with the tobacco industry. The cigarette companies see addiction as a very dangerous point to be brought before the public because it undercuts their position that cigarette smoking is a freely chosen adult custom. They don't want labeling requirements in developing nations, because it might inhibit their marketing efforts there.

An implicit element of debates concerning cigarette warnings was the possibility that they might shield cigarette companies from legal liability for failure to warn consumers of potential risk associated with smoking (this matter is discussed further below). According to congressional aide Forbes, the cigarette industry sought, through the warning, to avoid liability for its failure to warn of the risks of smoking while at the same time never actually admitting that the product might be dangerous:

One of the industry's long-standing and non-negotiable demands has been that the statements be attributed to the Surgeon General and not the company manufacturing the cigarette. The industry does not warn the public of the adverse health effects of smoking cigarettes, the Surgeon General does. This provides them considerable leeway in their efforts to undercut the effectiveness of that warning.

The general consensus of those interviewed by the casewriter was that cigarette labelling would not be revived as an issue in the Congress in the mid-1980s, although a requirement for health labels on smokeless tobacco products might be considered in the 1985 session. If cigarette labeling were again to be considered by Congress, the likely issues would be whether a warning was needed that cigarettes are addictive, in light of research findings, and whether potentially hazardous chemical additives would need to be disclosed.

## Fire Safe Cigarettes

In 1984, Congress formed a committee to work under the direction of the Consumer Products Safety Commission to investigate the feasibility of requiring cigarette makers to produce cigarettes that would extinguish themselves if not puffed within a certain period of time. One study showed that only one nationally distributed brand--More-- would self-extinguish within five minutes if not puffed. It was believed that such a regulation might reduce the number of cigarette caused fires. (43) Proposed legislation was supported by furniture makers, who argued that they were unreasonably being made to adhere to higher fire safety standards because of the inordinate danger caused by carelessly handled cigarettes that would not self-extinguish. A Tobacco Institute publication summarized the cigarette industry's reasons for opposing such a measure on the grounds that "the proposals sought unwisely to legislate science into existence or were based on demonstrably incorrect scientific assumptions." (45)

## Smoking in Public Places and Nonsmokers' Rights

In the late 1970s and early 80s, several legal initiatives were undertaken to restrict smoking in public places. A number of lawsuits were brought against employers by smoke-sensitive employees, either requesting a work environment free from cigarette smoke or workers' compensation because their intolerance for cigarette smoke forced them to quit their jobs. In general, these suits were resolved in favor of the nonsmoking plaintiffs.

Anti-smoking organizations were also increasingly effective in obtaining legislation mandating segregated nonsmoking facilities. Action on Smoking and Health obtained regulations requiring separate smoking and nonsmoking sections on airplanes. Nonsmokers' rights groups like Group Against Smokers' Pollution (GASP) and Californians for Nonsmokers' Rights began to achieve local ordinances requiring nonsmoking areas in restaurants and other public places. The tobacco industry vigorously opposed these measures, arguing that they were an unwarranted government intrusion into personal matters better resolved through common courtesy.

Stanton Glantz, PhD, President of Californians for Nonsmokers' Rights and Associate Professor of Medicine at the University of California San Francisco, told the casewriter that the nonsmokers' rights movement had generated tremendous momentum. Pointing out that trends in California frequently led the nation, he said that the number of Californians covered by nonsmoking ordinances was 1.2 million at the end of 1983, and by the end of 1984 had grown to 7.5 million, including the state's largest cities. He commented on the industry's tactics in combatting the movement:

The tobacco industry's tactics have remained basically the same for the past thirty years. They try to obfuscate the scientific evidence concerning the hazards of smoking or passive smoking, and use political power and economic

muscle to resist change. While these tactics were effective in the past, when the locus of activity was centered at the federal level, now the fight is taking place at the local level, where constituencies are more important-- and at the local level, the tobacco industry does not have a constituency when it comes to nonsmokers' rights. Even most smokers agree that nonsmokers should not have to breathe their cigarette smoke.

I think the industry's political effort is coming unglued. Several years ago, a Roper poll that they commissioned said the only way they could combat the passive smoking issue would be to provide credible scientific evidence that it is not harmful, which is like trying to prove that up is down. I think we will see other states begin to emulate the success we have had in California as the scientific evidence concerning the danger to nonsmokers of breathing other people's cigarette smoke becomes more widely publicized.

The Tobacco Institutes' Merryman was very concerned about the nonsmokers rights movement. However, he saw the issue in broader terms than just nonsmokers' rights:

I think that proposed legislation to segregate smokers from nonsmokers is a threat not just to the cigarette industry, but also to the freedom of independent business people to run their establishments the best way they know how, without government interference. People involved in the anti-smoking movement are a small but vocal minority. Most people, smokers and nonsmokers, get along just fine without government trying to dictate their personal lifestyle choices. Nonsmokers' rights advocates don't just want segregated facilities. They want smoking banned in public places. I see it as nothing less than a prescription for prohibition.

One way the Tobacco Institute resisted proposed legislation to enforce segregation of smokers was through its Tobacco Action Network (TAN). This organization consisted of about 100,000 volunteers, mostly people who either directly or indirectly made their livings through tobacco products. The Tobacco Institute provided training materials and periodic informational updates. Then, whenever lobbying was needed on a particular issue, appropriate members of the TAN would be mobilized to write letters, visit legislators, or otherwise assist in the campaign.

The tobacco industry also spent heavily to oppose major initiatives that would restrict smoking in public places. According to Glantz, the cigarette companies spent \$6 1/2 million to defeat a 1978 California proposition that would have required separate nonsmoking facilities in many public buildings. He charged that the cigarette companies contributed in almost precise proportion to their California market shares, and expended more than the combined spending of both candidates for governor that year. In 1980, the cigarette industry spent another \$3.2 million to defeat a similar California proposition. (46)

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## Constraints on Advertising and Promotion

In the early 1980s, cigarettes were the most heavily advertised product in the world. In the United States alone, more than \$1.5 billion was spent each year on cigarette advertising and promotion. In 1983, R.J. Reynolds and Philip Morris were the fifth and sixth largest advertisers in the country, and all six domestic cigarette companies were in the top 100. (47) In real, inflation adjusted terms, annual expenditures for cigarette advertising and promotion increased by about 125 percent between 1967 and 1983, while the number of cigarette smokers to whom the tobacco industry stated those ads were directed remained constant at about 55 million.

The earliest attempts at regulation of cigarette advertising were complaints filed by the Federal Trade Commission that certain ads were deceptive. Between 1938 and 1968, the FTC took action against 25 advertisements on the grounds that they were deceptive, most commonly because of health claims. In 1955, the FTC adopted advertising guidelines for cigarettes. These guidelines prohibited suggestions that the medical community had approved of smoking in general, or an individual brand in particular. In 1972, the FTC obtained voluntary agreements from the six domestic cigarette companies to include health warnings in all of their advertising (this was subsequently required by law).

In 1964, in a move to head off Congressional action to regulate advertising, all cigarette companies adopted the "Cigarette Advertising Code". This self-policing mechanism was intended to assure that: 1) cigarette ads were not directed at young people (defined by the code as anyone under 21 years of age); 2) cigarette samples would not be distributed to anyone under 21; 3) ads would not portray smokers as participating in, or just having participated in, strenuous athletic activities; and 4) unsubstantiated health claims would not be made. All advertisements were to be cleared by a Code Administrator, who was to be a person hired from outside of the industry (the first administrator was a former governor of New Jersey). The administrator was to have the power to fine violators up to \$100,000. Although the administrative mechanism was dismantled in 1967, The Tobacco Institute stated that the code was still being voluntarily observed by all companies in 1985.

One of the signal events in the regulation of cigarette advertising occurred in 1967, when the Federal Communications Commission approved a petition from a lawyer named John Banzhaf (who subsequently established Action on Smoking and Health (ASH), a leading anti-smoking organizations) to provide television air time for antismoking commercials under the Fairness Doctrine. The FCC ruling in Banzhaf's favor was upheld by an appellate court, and shortly thereafter, television stations were required to run public service messages about the dangers of smoking in proportion to time sponsored by cigarette ads.

The immediate impact of these anti-smoking ads was to cause a sharp reduction in cigarette consumption. In fact, some people who



studied the issue believed that the effectiveness of these antismoking ads is what led the cigarette industry to go along with a ban on TV advertising, since removing cigarette ads from the air would also result in removal of the antismoking ads. On January 2, 1971, all cigarette advertising was removed from television as a result of a law passed by Congress. Over the next ten years, the cigarette companies and their advertising agencies moved very effectively into print and outdoor advertising, and other promotional techniques.

In 1981, the FTC delivered a report to Congress summarizing its investigation of cigarette advertising. (48) This report was based partially upon an analysis of subpoenaed cigarette company marketing documents. The report was highly critical, claiming that many cigarette advertising practices were designed to encourage young people to experiment with smoking, and to reduce the anxieties of smokers and potential smokers about the health consequences of smoking. The report also reviewed a number of public surveys concerning the public's knowledge of the risks of smoking, and concluded that people were aware of the risks associated with smoking only in general terms, but there was a low level of knowledge concerning specific risks. (As mentioned above, this report was largely responsible for the enactment of more detailed risk warnings in 1984.)

Advertising Aimed At Youth: Perhaps the most emotionally laden charge levelled against the cigarette companies was that their marketing programs were directed at young people. Donald Shopland, Technical Information Officer of the U.S. Office on Smoking and Health, told the casewriter that there was convincing evidence that some cigarette advertising was indeed intended to influence young people to start smoking, and that it had been very effective. Shopland's office was the national clearinghouse for all published information pertaining to smoking and health. He told the casewriter:

The cigarette companies know that they have to induce young people to smoke in order to replace those older smokers who quit or die. Surveys have shown that if you're not a smoker by the time you're 21, you're probably not going to start. About 80 percent of smokers have started by the time they are age 18, and 90 percent by the time they are 21. You can be very sure that the cigarette companies are aware of these demographics, and also know quite well what influences young people.

Cigarette company "image advertising" drew intense criticism. It was charged that role model advertising was designed to create an aura of glamour around cigarette smoking in the minds of young people. Discussing the use of role model imaging, the FTC's 1981 report quoted from R.J. Reynolds 1977 marketing plan for Salem: "Motivational research has identified the phenomenon of image projection as a highly motivating force. Therefore, through the association of Salem... with the aspirations and lifestyles of contemporary young adults, this important segment can be attracted to the brand." (49)

The FTC report also quoted sections of a 1975 internal marketing study prepared by an advertising agency, and subpoenaed from Brown &

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Williamson, which addressed the problem of attracting "young starters" to the Viceroy brand. The recommendations included:

- Present the cigarette as one of a few initiations into the adult world.
- Present the cigarette as part of the illicit pleasure category of products and activities.
- In your ads create a situation taken from the day-to-day life of the young smoker but in an elegant manner have this situation touch on the basic symbols of the growing-up, maturing process.
- To the best of your ability, (considering some legal constraints), relate the cigarette to 'pot', wine, beer, sex, etc. (50)

William Meyers, author of The Image Makers: Power and Persuasion on Madison Avenue, charged that cigarette marketers used "image transformation" to link their products with key psychological needs of young people-- in particular, peer approval. He further argued that, in order to attract young people, cigarette advertisers "prey on their insecurity" by providing powerful role model images like the Marlboro cowboy and the Macho outdoorsmen of Kool and Winston, or the fashionable and successful ladies of Virginia Slims. (51)

According to Dr. Blum of DOC, charges that cigarette advertising was intended for teenagers were corroborated by the media selected to convey cigarette advertisers' messages: "Just look at the magazines cigarette companies advertise in: sports magazines where the average age of readers is less than 20; pornographic magazines aimed at teenaged boys; Rolling Stone, where the average reader is 17 years old; and cigarettes are among the most heavily advertised products in magazines aimed at young women." (Exhibit 8 shows the volume and proportion of cigarette advertising in major magazines in 1981).

Cigarette industry critics also charged that many non-advertising promotional activities were targeted at young people. Some of these allegations were reviewed in a television feature on the ABC News program 20/20 in October, 1983. The tactics reviewed included: cigarette company sponsorship of sporting and musical events with large audiences of teenagers; distribution of free cigarettes to young people attending concerts of rock groups like David Bowie and the Talking Heads; and arranging to have a particular brand of cigarettes featured in movies directed at adolescents-- it was charged, for example, that Philip Morris paid to have its Marlboro cigarettes prominently featured throughout the movie Superman II. (52)

The Tobacco Institute's Merryman argued that cigarette company marketing activities were not intended to influence young people, and that children who started smoking did so as a result of peer pressure, or because their parents smoked, and not as a result of cigarette advertising. In fact, he said, the cigarette industry had repeatedly and publicly expressed its position that children should

not smoke. As he explained to the casewriter:

There is no convincing evidence that cigarette company advertising is directed towards children. Academic studies show that it is brand advertising-- designed to get people to switch brands or remain loyal to their current brand. Cigarette marketing does not attempt to increase the size of the market, but rather to increase a company's share of a fixed market. Even in countries where no advertising is allowed, cigarette consumption is growing faster than the rate of population growth-- hardly an endorsement of advertising's effectiveness at increasing market size.

Advertising and Health Issues: Critics charged that the cigarette industry had used advertising to offset consumer concerns concerning health since the 1920s (see Appendix 2). The FTC's 1981 report stated "Many cigarette advertising techniques appear to denigrate or undercut the health warning. Information obtained from subpoenaed documents indicate that, at least in the case of several advertising campaigns, these techniques have been carefully planned." (53)

The tobacco industry also took its case that cigarettes had not been proven to be harmful directly to the public with advocacy advertising programs concerning what it called "the smoking and health controversy" (Exhibit 5). The Tobacco Institute was the industry's primary sponsor in these advertising campaigns. The purpose of many of the ads was to present what the industry claimed was the untold other side of the story-- evidence which tended to disprove the causal relationship between smoking and health that had been accepted by the medical community.

In 1983, R.J. Reynolds initiated a seven million dollar advertising program with many of the same purposes as earlier campaigns by The Tobacco Institute (Exhibit 5). E.A. Horrigan, Chairman of R.J. Reynolds Tobacco, explained the campaign in an internal company magazine:

We recognize that some of the messages will be controversial. But we think that by not speaking out more frequently over the years, we have led people to believe we have nothing to say, and that is not the case. By stating our positions on these issues, Reynolds Tobacco is adding another dimension to the tobacco industry's communications efforts. We want to try to substitute rational discussion for the emotionalism currently surrounding smoking. (54)

Tobacco industry advertising campaigns to raise questions about the disease-causing nature of cigarettes were roundly criticized by anti-smoking groups. For example, Dr. Claude Lenfant, Director of the National Heart, Lung, and Blood Institute of the U.S. National Institutes on Health, in a letter to the editor of the Wall Street Journal that responded to R.J. Reynolds' advertisement about the MR FIT (referenced above) said:

Data from the MR FIT study itself, that was conveniently ignored

by Reynolds, showed that men who quit smoking in both the special intervention and control groups had lower coronary heart disease rates compared to those in the study who continued to smoke. It is irresponsible for anyone, including a tobacco company, to try and cast doubts on the solidly established relationship between smoking and disease. Smoking remains the most preventable cause of death in the U.S. (55)

An article in Forbes speculated that the reason R.J. Reynolds undertook its ad campaign was that many of its Winston smokers were in the health-conscious over-40 age group, and if it succeeded "in quelling the health fears of only a fraction of those smoking who otherwise would have stopped, Reynolds benefits." (56)

Media Dependence on Cigarette Advertising Revenue: An advertising-related criticism of the massive advertising expenditures of cigarette companies was that magazines and newspapers became heavily dependent upon cigarette advertising revenues (Exhibit 8), and were thus reluctant to publish articles concerning the health risks of smoking. A number of studies conducted in the 70s and 80s concluded that magazines and newspapers that accepted cigarette advertising in large quantities provided scant coverage of smoking-related health problems. (57)

Dr. Elizabeth Whelan, Executive Director of the American Council on Science and Health, had conducted some of the studies showing that magazines accepting substantial cigarette advertising did not do a very good job of covering smoking-related health issues. In an interview in her New York City office, she told the casewriter that the cigarette industry had effectively prevented many people from learning about the real extent of risk associated with smoking because the threat of withdrawing cigarette advertising could be used to keep magazines from thoroughly covering smoking and health issues:

People only know about the hazards of cigarette smoking rhetorically. Most smokers are not aware of the real risks that they will die of lung cancer, emphysema, or heart disease because of their smoking, nor do they know the devastating physical impact of these and other cigarette-related diseases. The media is largely responsible for this public ignorance. It has been well-documented that publications which receive large amounts of cigarette advertising revenue do not do a very good job of providing the public with information about the risks of smoking; they are very cautious about printing articles that might counteract the healthy glow radiated by their profitable cigarette ads.

Proposals for an Advertising Ban: In January, 1985, the National Advisory Council on Drug Abuse submitted a recommendation to the Secretary of Health and Human Services that all cigarette advertising, as well as promotional techniques like product give-aways and event sponsorship, be banned. The Council stated that, although cigarette companies claimed that advertising was not intended for young people, the actual effect was that young people were in fact being influenced. The Council thus added its voice to the anti-smoking groups in

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recommending that cigarette advertising and promotion be banned.

The tobacco industry made it clear that it would strongly oppose any attempt to further restrict advertising. It was joined by the advertising and media industries, which argued that restrictions on cigarette advertising would violate the freedom of speech guarantees of the first amendment. Howard Bell, President of the American Advertising Federation, when responding to the 1981 FTC study on cigarette advertising, said "the public interest is not served by baseless accusations that cigarette advertising is deceptive." (58) Dan Jaffee, the Federation's Senior Vice President for Government Relations, expressed the industry's view on further advertising restrictions to the casewriter, "We oppose governmental bans on the truthful, non-deceptive advertising of legal products." (A copy of the American Advertising Federation's "Advertising Principles of American Business" is included in Exhibit 9.)

### Cigarette Marketing in the Third World

The marketing of cigarettes in developing countries was an issue of great controversy in the mid-1980s. In a 1983 report on smoking control strategies in developing countries, the World Health Organization charged that "highly sophisticated and ruthless campaigns promoting smoking" by cigarette companies were responsible for the fact that cigarette consumption was increasing rapidly in many developing countries. The report endorsed the view that "The international tobacco industry's irresponsible behavior and its massive advertising and promotional campaigns are... direct causes of a substantial number of unnecessary deaths." (59) Many developing nations had no controls on cigarette marketing practices, or requirements that health warnings be included in cigarette advertisements or packages.

The WHO predicted that the increase in Third World smoking would inevitably cause an "epidemic" of cigarette related diseases in Third World countries within the next ten to twenty years. According to the WHO, cancer of the mouth and esophagus were already serious problems in many Third World countries (many of which had long-engrained practices of chewing tobacco and other substances or smoking pipes and cigars, but not inhaling), and now "lung cancer will become epidemic in the Third World unless the current increases in the consumption of cigarettes are slowed or reversed." (60)

A study by the Population Information Program of Johns Hopkins University analyzed available data concerning lung and oral cancer, pulmonary disease, and coronary heart disease in developing nations concluding: "While the epidemiologic information on tobacco-related morbidity and mortality in the developing countries is not nearly as extensive as in the industrialized nations, it is nonetheless clear that tobacco users everywhere suffer from illness caused by their habit." (61) The WHO expressed concern that many cancer victims in developing countries suffered great pain because the health care infrastructure could not even provide rudimentary analgesics to victims. (62)

John Cavanagh of the Institute for Policy Studies in Washington D.C. studied the marketing of alcohol and tobacco in the Third World. He told the casewriter that cigarette companies directed much of their promotion to young people in developing nations, using similar techniques for both alcohol and cigarettes:

Five of the big seven tobacco companies are now major producers of alcohol. They use the same distribution channels and networks to spread alcohol as they do cigarettes. Both for alcohol and tobacco, growth in western markets began to stagnate because of the increasing health consciousness of western societies and because markets have become concentrated in the hands of several large companies. The strategy of these companies for both alcohol and cigarettes has been to offset the sales decline in their traditional markets by giving extra attention to Third World markets, women, and youth. Since both alcohol and tobacco are addictive, and are characterized by a high degree of lifetime brand loyalty, the companies know how important it is to sell people when they are young and just beginning to make decisions about smoking and drinking.

Philip Morris' Bowling contended that the cigarette companies were not creating primary demand in these countries, but responding to a spontaneous increase in demand. He was also satisfied that the cigarette companies were adequately warning Third World consumers of possible health risks. Showing the casewriter a copy of one of his company's annual reports, he said:

The smoking custom in many countries goes back hundreds of years. For example, the cover of Philip Morris' 1982 annual report shows an ancient Mayan vase with a picture of a man smoking a cigarette inscribed on it. People are smoking in every country now. We are not creating a market, we are just supplying a better product. Warning labels are placed on packages in response to varying national requirements. We obviously comply with those national requirements.

A 1981 Tobacco Institute publication entitled "Tobacco in the Developing Nations" charged that anti-smoking groups, "having largely failed in efforts to get people to quit smoking in vast numbers and not so successful as they would like to be in their campaigns to ban public smoking... began to paint broad-brush pictures of international tobacco companies as villains in a new, emotion-packed context." The report responded to many of the criticisms of anti-smoking groups. It argued that cigarette advertising in developing countries did not increase primary demand for cigarettes, citing as evidence nations in which cigarette demand was rising despite restrictions on advertising; that provision of health warnings on cigarette packages would be a "neo-colonial" imposition of western health priorities on governments in developing nations; that if higher tar and nicotine cigarettes are sold in the Third World, it was only because the people in those countries preferred them; and that tobacco cultivation and cigarette production and marketing had a beneficial impact on the economies of

many developing nations. (63)

### Civil Liability

In the late 1960s and early 70s, there was a flurry of litigation against cigarette companies by people who had contracted lung cancer, allegedly as a result of smoking cigarettes. One of the most important of these was Green vs. American Tobacco, initially filed in 1957, and carried on by Mr. Green's relatives after he died. American Tobacco won the first round in court, but the appeals court ordered a new trial. In that trial, the court again found for American Tobacco on the grounds that cigarettes must be "reasonably" wholesome and safe for human consumption if it took them 20 to 30 years to cause cancer in Mr. Green.

Three years later, the decision was again appealed because of new precedents, and the court found in favor of Mr. Green's descendants. The appeals court, however, overturned the verdict, and it was not appealed to the U.S. Supreme Court. For a period of about ten years after the Green decision was overturned, there were no reported decisions in civil lawsuits against cigarette companies. Then, in the late 1970s, a number of new lawsuits were filed. Several of these were represented by a consortium of lawfirms in New Jersey.

Eight lawsuits had been brought by this consortium on three different legal theories: 1) failure of the cigarette companies to warn consumers of the addictive nature of cigarettes; 2) fraudulent advertising that attempted to create doubt in the consumer's mind about whether cigarettes were really harmful; and 3) consumers who started smoking before cigarette companies were forced to warn consumers of health risks, though the companies knew of the risk and should have provided warning. David Novack, one of the consortium's attorneys, explained the underlying concept of a corporation's duty to warn consumers of potential risks associated with using a product:

The duty of a corporation to warn a consumer of the potential for harm associated with the use of a product does not begin only when the company is 100 percent sure that the danger is real. This is a very important difference in determining questions of product liability, as opposed to scientific research.

An important concept is 'state-of-the-art', in other words, when does a corporation incur the duty to warn consumers of a potential hazard. The law holds manufacturers to the standard of experts. For cigarette company executives to say 'we're not doctors' is not a valid excuse for failure to act upon available medical evidence concerning the potential danger of a product. In the 1950s, epidemiological studies indicated that cigarette smoking is associated with lung cancer. The law does not give the industry the luxury of waiting until all the definitive evidence is in before warning consumers of the potential hazard. The question is not when did the scientists know the answer, but when did the consumer have the right to be warned of the

danger.

Professor Richard Daynard of the Northeastern Law School in Boston was director of the Tobacco Product Liability Project. He did not believe that the cigarette companies had met their duty to warn consumers of the potential risks of smoking. He told the casewriter:

The cigarette companies not only are not providing adequate warning of the risks associated with smoking, but they are doing everything possible to undermine what warnings there are now. It is perfectly clear that they have done their best in negotiations with the Federal Trade Commission and Congress to make the message as small, nonspecific, and obscure as possible in order to keep consumers from learning of the real risks associated with smoking. And they have been very successful. Although most people generally know that cigarettes cause cancer, few realize that cigarettes are responsible for nearly all lung cancer, nearly all emphysema and bronchitis, and a great deal of heart disease.

Professor Robert Rabin of the Stanford Law School believed that advertising agencies might also be found liable for damages in lawsuits arising from cigarette-related injuries:

If it could be shown that advertising agencies were negligent or reckless in developing advertising campaigns for cigarettes, I don't see any reason why they couldn't be joined in a lawsuit against cigarette manufacturers or sued independently. In fact, in one sense, advertising agencies might be better targets for liability than the cigarette companies. The cigarette company is required to put a warning label on every package-- it is the job of the advertising agency to get people to overlook that label and buy the product.

By early 1985, there were about 100 product liability lawsuits pending against cigarette companies, though none had yet come to trial. It was anticipated that, regardless of the outcome of the first trial, the issue would ultimately be resolved by the U.S. Supreme Court. According to Professor Daynard, the legal environment had changed significantly since the Green case was resolved:

The biggest change since the earlier cases were tried is the realization by medical experts that cigarettes are highly addictive. The cigarette companies will be unable to claim assumption of risk or contributory negligence in cases involving plaintiffs who became addicted to cigarettes as children, but who were never made aware of the risk of addiction.

Another important change has been the extension of product liability law. The atmosphere has changed substantially since the 1960s, and now strict liability is much more widely accepted by the courts. Toxic tort cases like those involving asbestos have greatly widened this concept. I think plaintiffs in the cigarette liability cases will win, because the evidence



showing that cigarettes cause lung cancer and other diseases is much stronger than that linking asbestos with disease.

A sign of the changed legal environment appeared in the fall of 1984, when the judge hearing the New Jersey lawsuits denied cigarette company arguments that federal labeling statutes relieved them-- in fact prohibited them-- from providing a more specific warning. In rejecting this argument, Judge H. Lee Sarotkin of the U.S. District Court for New Jersey allowed the plaintiffs to argue that the cigarette companies had breached their duty to provide adequate warning concerning the dangers of smoking, and also that they had tried to "neutralize or negate the effects of the warning." Judge Sarotkin's ruling read, in part:

Now that government has acted in many areas and decreed safety and quality standards, it would be unfortunate if those directed to do no less, assume that they need do no more. In almost every instance, government standards are meant to fix a level of performance below which one should not fall. However, legal minimums were never intended to supplant moral maximums. Nor were they intended to eliminate pride in quality and craftsmanship or self-imposed standards of health and safety. (64)

Representatives of the cigarette industry interviewed by the casewriter did not wish to discuss the matter in detail, as there was pending litigation. They did, however, indicate confidence that they would prevail in these suits. The following note from the Philip Morris 1984 annual report summarized that company's position:

There is litigation pending against the leading United States cigarette manufacturers seeking damages for cancer and other health effects alleged to have resulted from cigarette smoking. The company is a defendant in some of these actions. The company and the other cigarette manufacturers have successfully defended all similar prior litigation and have not made any payments in settlement. An adverse development in pending litigation might encourage the commencement of similar litigation. It is not possible to predict the outcome of pending litigation; however, management does not believe that the pending actions will have a material adverse effect upon the financial condition of the company. The company will vigorously defend all such actions.

### Public Perception of the Cigarette Industry

Public attitudes toward the cigarette industry had, and would continue to have, a significant effect on public policy. Many of those from anti-smoking groups interviewed by the casewriter believed that public opinion was clearly shifting against the cigarette industry. Several noted that people who five or ten years ago would not have taken notice, much less umbrage, at sitting near someone smoking, were increasingly demanding their rights to breath "unpolluted" air. Additionally, industry critics were raising serious charges concerning the ethics of those involved in cigarette marketing, and these charges seemed to be having an effect. In 1984, a number of

church groups, including the Southern Baptists and the Tobacco Study Committee of the North Carolina Council of Churches, urged that churches use their influence to reduce the incidence of smoking, and to evaluate ethical questions involved with the sale of tobacco products.

The cigarette companies were concerned about maintaining their social respectability. A Roper poll conducted on behalf of the industry in 1978 indicated that only 27 percent of the public believed that cigarette companies were "very interested or moderately interested in the safety and welfare of the people who use their products"; this was five percentage points worse than the rating given the asbestos industry. The same poll showed that only 8 percent of the public thought that the industry actually disbelieved evidence that cigarettes were harmful, and that only 7 percent thought "the industry is working hard to find the answers." (65)

## VI. FUTURE OF THE TOBACCO INDUSTRY

Opinions concerning the future of the cigarette industry varied widely. There was a general consensus on the part of representatives from government and anti-smoking organizations that the industry's power had deteriorated significantly, and would continue to do so, in response to medical research findings, growing cooperation among health groups, and the changing public perception of the industry. Philip Morris' Bowling, however, tried to place the current situation in a historical perspective for the casewriter:

The tobacco industry has dealt with these problems for hundreds of years. In 1604, King James' Counterblaste to Tobacco attributed every known ill of the day to tobacco. Looked at historically, James' primary concern was probably to prevent English Sterling from going to his enemies the Spanish who were profiting from tobacco. As early as the Jamestown colony, the tobacco industry was confronted with the three major problems we face today-- health concerns, taxation, and crop restrictions.

In the 1920s, when the last of the major attacks on smoking occurred, cigarettes were alleged to be the cause of tuberculosis. Seven states passed laws outlawing cigarettes on this basis. The real tragedy was that, because people believed that cigarettes were the cause of TB, research into the real causes suffered. In the 1920s, the Tobacco Merchants' Association was assembled to deal with these problems. The minutes of that group read remarkably like those of board meetings in the industry today. In fact, reading them gives one a sense of confidence, because we have successfully weathered all of these problems before.

Philip Morris has just completed a huge new cigarette factory, as have R.J. Reynolds and Brown & Williamson. We are building modern and efficient plants all over the world. I'd say that

we have a great deal of confidence in the future.

Professor Rabin of Stanford thought that the various legal suits that had been brought against the cigarette industry could profoundly alter its marketing practices:

It is unlikely that a jury will completely exculpate the cigarette companies in these lawsuits. Under the doctrine of comparative negligence, there is likely to be some proportioning of responsibility for damages. The victim may be seen as foolish for smoking, but the cigarette companies and advertising agencies that tried to blur health warnings and make it appear that smoking is a habit consistent with a healthy and athletic lifestyle are likely to be regarded as more seriously at fault. There is a real likelihood that juries are going to assess damage awards, in the near future, of sufficient size to have a real impact on marketing practices of cigarette companies. In fact, given the unwillingness of government to prevent misrepresentational cigarette advertising, it may be that the tort system is the only mechanism left to accomplish this goal.

Dr. Glantz of Californians for Nonsmokers' Rights thought that the challenges facing the tobacco industry in the 1980s were different than any it had surmounted previously. Glantz spoke in terms of a sea-change in public opinion concerning smoking:

I think that smoking in public is going the way of tobacco spitting-- it is becoming socially unacceptable. It is just a matter of time before people who smoke will do so only in private, and smoking will no longer be seen as glamorous, but for what it is-- an addictive and dangerous habit that is also noxious to people around the smoker.

A more radical scenario was projected by Dr. Blum of Doctors Ought to Care:

There is no doubt in my mind that within my lifetime there will be criminal trials of cigarette company executives. There is ample documentation that they have been dishonest and deceptive concerning the health implications of smoking, have deliberately directed advertising and promotion at children, have included dangerous additives in their cigarettes-- like the asbestos in Kent's Micronite filter-- and have influenced commercial transactions and the political process through inappropriate and sometimes illegal payments. As the public in this country becomes more aware of their unethical marketing practices, and as increasing numbers of people start to die of cigarette-related cancer and other diseases in the developing world, I think it is inevitable that cigarette company executives will be called to account for their transgressions.

Whichever prediction was correct, one thing was certain. The controversy surrounding the practices used to sell cigarettes in the U.S. and around the world would not subside soon, and was likely to grow more heated throughout the balance of the century.

EXHIBIT 1

PROFILE OF MAJOR U.S. CIGARETTE COMPANIES

Sources:

1. Company Annual Reports
2. Maxwell, J, "Generics Smoke Out Competition", Advertising Age November 28, 1984
3. "Tobacco", Forbes, January 14, 1985
4. Endicott, C, "Leaders Rebuild Sales, Hike Advertising 10.5 %"  
Advertising Age, September 14, 1984

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EXHIBIT 1, (contd.)

PHILIP MORRIS

(All figures in millions and for 1984  
unless otherwise specified)

U.S. MARKET SHARE (percent)..... 34.5

RETURN ON INVESTMENT, 1979-84 (percent)..... 23.9

REVENUES

TOTAL..... 13,813

CIGARETTE..... 9,802

CIGARETTE AS A PERCENT OF TOTAL..... 71

OPERATING INCOME

TOTAL..... 2,346

CIGARETTE..... 2,141

CIGARETTE AS A PERCENT OF TOTAL..... 91

NET INCOME..... 886

EARNINGS PER SHARE (dollars)..... 7

UNITS SOLD (billions)

DOMESTIC..... 206

DOMESTICALLY PRODUCED, EXPORTED..... 40

FOREIGN PRODUCED..... 258

1983 ADVERTISING EXPENDITURES (rank) \*..... 527 (6)

\* for all products; excludes promotional expenses.  
Rank among all U.S. corporations.

MAJOR DOMESTIC CIGARETTE BRANDS

Marlboro  
Merit  
Virginia Slims  
Benson & Hedges  
Parliament  
Philip Morris

SUBSIDIARIES

Philip Morris, USA  
Philip Morris, International  
Miller Brewing  
Seven-Up  
Philip Morris Industrial  
Mission Viejo Realty Group

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EXHIBIT 1 (contd.)

R.J. REYNOLDS

(All figures in millions and for 1984  
unless otherwise specified)

U.S. MARKET SHARE (percent)..... 32.0

RETURN ON INVESTMENT, 1979-84 (percent)..... 24.6

REVENUES

TOTAL..... 12,974  
CIGARETTE..... 7,685  
CIGARETTE AS A PERCENT OF TOTAL..... 59

OPERATING INCOME

TOTAL..... 1,619  
CIGARETTE..... 1,288  
CIGARETTE AS A PERCENT OF TOTAL..... 80

NET INCOME..... 935

EARNINGS PER SHARE (dollars)..... 7

UNITS SOLD (billions)

DOMESTIC..... 190  
DOMESTICALLY PRODUCED, EXPORTED..... 15  
FOREIGN PRODUCED..... 85

1983 ADVERTISING EXPENDITURES (rank) \*..... 593 (5)

\* for all products; excludes promotional expenses.  
Rank among all U.S. corporations.

MAJOR DOMESTIC CIGARETTE BRANDS

Winston  
Vantage  
Century  
Doral  
Bright  
More  
Now  
Salem  
Sterling

SUBSIDIARIES

Del Monte foods and beverages  
Heublein alcoholic beverages  
Kentucky Fried Chicken  
RJR Development Corporation  
RJR Archer

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# EXHIBIT 1 (contd.)

BATUS (Brown & Williamson)

(All figures in millions and for 1984  
unless otherwise specified)

U.S. MARKET SHARE (percent)..... 11.4

RETURN ON INVESTMENT, 1979-84 (percent)..... NA

## REVENUES (1983)

TOTAL.....	6,064
CIGARETTE.....	2,100
CIGARETTE AS A PERCENT OF TOTAL.....	35

## OPERATING INCOME (1983)

TOTAL.....	698
CIGARETTE.....	405
CIGARETTE AS A PERCENT OF TOTAL.....	58

NET INCOME (1983)..... 259

EARNINGS PER SHARE (dollars) (1983)..... NA

## UNITS SOLD (billions, 1983)

DOMESTIC.....	68
DOMESTICALLY PRODUCED, EXPORTED.....	10
FOREIGN PRODUCED.....	NA

1983 ADVERTISING EXPENDITURES (rank) \*..... 146 (43)

\* for all products; excludes promotional expenses.  
Rank among all U.S. corporations.

## MAJOR DOMESTIC CIGARETTE BRANDS

Kool  
Barclay  
Viceroy  
Raleigh  
Belair  
Richland

## SUBSIDIARIES

Department Stores:  
Gimbels  
Saks Fifth Avenue  
Frederick and Nelson  
Marshall Fields  
Iveys  
Crescent  
Kohls  
John Breuner furniture  
Thimbles specialty stores  
Appleton Papers  
Export Leaf Tobacco

EXHIBIT 1 (contd.)

LOEWS (Lorillard)

(All figures in millions and for 1984  
unless otherwise specified)

U.S. MARKET SHARE (percent)..... 8.4

RETURN ON INVESTMENT, 1979-84 (percent)..... 21.4

REVENUES

TOTAL..... 5,603  
CIGARETTE..... 1,431  
CIGARETTE AS A PERCENT OF TOTAL..... 26

OPERATING INCOME

TOTAL..... 437  
CIGARETTE..... 282  
CIGARETTE AS A PERCENT OF TOTAL..... 65

NET INCOME..... 329

EARNINGS PER SHARE (dollars)..... 4

UNITS SOLD (billions)

DOMESTIC..... 50  
DOMESTICALLY PRODUCED, EXPORTED..... NA  
FOREIGN PRODUCED..... NA

1983 ADVERTISING EXPENDITURES (rank) \*..... 135 (48)

\* for all products; excludes promotional expenses.  
Rank among all U.S. corporations.

MAJOR DOMESTIC CIGARETTE BRANDS

Newport  
Satin  
Kent  
True

SUBSIDIARIES

CNA Financial  
Loews Hotels and Theaters  
Bulova Watch

2022971922



EXHIBIT 1 (contd.)

AMERICAN BRANDS

(All figures in millions and for 1984  
unless otherwise specified)

U.S. MARKET SHARE (percent)..... 7.9

RETURN ON INVESTMENT, 1979-84 (percent)..... 22.9

REVENUES

TOTAL..... 6,995

CIGARETTE..... 4,229

CIGARETTE AS A PERCENT OF TOTAL..... 60

OPERATING INCOME

TOTAL..... 892

CIGARETTE..... 497

CIGARETTE AS A PERCENT OF TOTAL..... 56

NET INCOME..... 414

EARNINGS PER SHARE (dollars)..... 7

UNITS SOLD (billions)

DOMESTIC..... 47

DOMESTICALLY PRODUCED, EXPORTED..... 1

FOREIGN PRODUCED..... NA

1983 ADVERTISING EXPENDITURES (rank) \*..... 76 (79)

\* for all products; excludes promotional expenses.

Rank among all U.S. corporations.

MAJOR DOMESTIC CIGARETTE BRANDS

Lucky Strike  
Carlton  
Pall Mall  
Tareyton

SUBSIDIARIES

Gallaher cigarettes  
American Cigar  
Jergens Lotions  
Titleist golf balls  
Jim Beam alcoholic beverages  
Master Lock  
Franklin Life Insurance  
Southern Life Insurance  
Sunshine cookies and crackers  
Swingline office products  
Pinkerton Security Services  
Golden Belt Manufacturing

2022971923

EXHIBIT 1 (contd.)

GRAND METROPOLITAN (Liggett)

(All figures in millions and for 1984  
unless otherwise specified)

U.S. MARKET SHARE (percent)..... 5.8

RETURN ON INVESTMENT, 1979-84 (percent)..... NA

REVENUES

TOTAL..... NA

CIGARETTE..... NA

CIGARETTE AS A PERCENT OF TOTAL..... NA

OPERATING INCOME

TOTAL..... 181

CIGARETTE..... 78

CIGARETTE AS A PERCENT OF TOTAL..... 43

NET INCOME..... NA

EARNINGS PER SHARE (dollars)..... NA

UNITS SOLD (billions)

DOMESTIC..... 35

DOMESTICALLY PRODUCED, EXPORTED..... NA

FOREIGN PRODUCED..... NA

1983 ADVERTISING EXPENDITURES (rank) \*..... 56 (97)

\* for all products; excludes promotional expenses.

Rank among all U.S. corporations.

MAJOR DOMESTIC CIGARETTE BRANDS

L & M  
Eve  
Generics

SUBSIDIARIES

Pinkerton Tobacco  
Alpo pet foods  
Atlantic soft drink  
Pepsi bottling San Joaquin  
Divers. Prod. fitness equip  
Express Food Group  
Childrens World child care  
Quality Care home health care  
Intercontinental Hotels  
Paddington alcoholic beverages  
Carillon alcoholic beverages

2022971924

## EXHIBIT 2.

### Trends in cigarette consumption.\*

<i>Year</i>	<i>Number of cigarettes sold (in billions)</i>	<i>Per capita consumption</i>
1900	2.5	54
1910	8.6	151
1920	44.6	665
1930	119.3	1,485
1940	181.9	1,976
1950	369.8	3,552
1960	484.4	4,171
1963	516.5	4,286
1964	505.0	4,143
1965	521.1	4,196
1966	529.9	4,197
1967	535.8	4,175
1968	540.3	3,986
1969	527.9	3,986
1970	534.2	3,969
1971	547.2	3,982
1972	561.7	4,018
1973	584.7	4,112
1974	594.5	4,110
1975	603.2	4,095
1976	609.9	4,068
1977	612.6	4,015
1978	616.0	3,967
1979	621.5	3,861
1980	631.5	3,851
1981	640.0	3,840
1982	634.0	3,745
1983	600.0	3,494

\*For U.S. residents and overseas military personnel age 18 and older; based on data from the United States Dept. of Agriculture and the Federal Trade Commission.

Source: Whelan, E, A Smoking Gun, p.142

2022971925

### EXHIBIT 3

#### DOMESTIC CIGARETTE ADVERTISING AND PROMOTIONAL EXPENDITURES FOR YEARS 1970 and 1975-1981 (THOUSANDS OF DOLLARS)

TYPE OF ADVERTISING:	1970	% of TOTAL	1975	% of TOTAL	1976	% of TOTAL	1977	% of TOTAL	1978	% of TOTAL	1979	% of TOTAL	1980	% of TOTAL	1981	% of TOTAL
Newspaper	14,026	3.9	104,460	21.3	115,800	24.4	190,677	24.5	186,947	21.4	240,978	22.2	304,380	24.5	358,096	23.1
Magazines	50,018	13.9	131,199	26.6	148,032	23.2	173,296	22.2	184,236	21.1	257,715	23.8	266,208	21.4	291,227	18.8
Outdoor	7,338	2.0	84,329	17.2	102,689	16.1	120,338	15.4	149,010	17.0	162,966	15.0	193,333	15.6	228,081	14.7
Transit	5,354	1.5	10,852	2.2	19,341	3.0	21,530	2.8	22,899	2.6	21,151	2.0	26,160	2.1	21,931	1.4
Point of Sale	11,663	3.2	35,317	7.2	44,176	6.9	46,220	5.9	57,384	6.6	66,096	6.1	79,799	6.4	98,968	6.4
Promotional Allowances	33,789	9.4	72,018	14.7	82,523	12.9	108,227	13.9	125,148	14.3	137,111	12.7	179,094	14.4	229,077	14.8
Sampling Distribution	11,775	3.3	24,196	4.9	40,390	6.3	47,683	6.1	47,376	5.4	64,286	5.9	50,459	4.1	81,522	5.3
Distribution Bearing Name 1/	2,640	0.7	6,775	1.4	9,847	1.5	24,636	3.2	32,673	3.7	44,839	4.1	50,019	4.0	90,310	5.8
Distribution Not Bearing Name 1/	3,012	0.8	3,313	0.7	10,183	1.6	11,161	1.4	15,608	1.8	17,190	1.6	19,229	1.5	24,797	1.6
Public Entertainment 2/	544	0.2	8,484	1.7	7,946	1.3	9,538	1.2	11,590	1.3	10,783	1.0	16,914	1.4	37,423	2.4
All Others 3/	220,841	61.1	10,311	2.1	10,182	2.0	26,157	3.4	42,100	4.8	60,310	5.6	56,694	4.6	86,226	5.6
Total	361,000	100.0	491,254	100.0	639,117	100.0	799,463	100.0	874,972	100.0	1,083,425	100.0	1,242,288	100.0	1,547,658	100.0

1/ In 1979 and 1980, one company did not provide separate data for categories "Distribution Bearing Name" and "Distribution Not Bearing Name." The entire amount is included in "Distribution Bearing Name."

2/ This category was previously referred to as Special Events. Sporting, musical, etc. are included in Public Entertainment. Some of these had been previously included in the All Others categories.

3/ Includes TV and Radio advertising expenditures of \$287,324,000 and \$12,492,000, respectively, for 1970. Broadcast advertising was banned after January 1, 1971. Expenditures for direct mail and endorsements and testimonials are included in the "All Others" category to avoid disclosure of individual company data.

Source: Federal Trade Commission

9261262202

## EXHIBIT 4

## THE TOP CIGARETTE BRANDS OF 1984

Rank			Brand	Company	Market share			5-year percentage point change	Sales (Billions of cigarettes)			5-year growth rate
1984	1982	1980			1984	1982	1980		1984	1982	1980	
1	1	1	Marlboro	Philip Morris	21.20%	19.56%	17.79%	3.41	125.8	121.7	108.8	3.8%
2	2	2	Winston	Reynolds	11.94	13.07	13.25	-1.31	70.8	81.3	81.1	-3.0
3	3	4	Salem	Reynolds	8.13	8.74	8.90	-0.77	48.2	54.4	54.4	-2.4
4	4	3	Kool	Brown & Williamson	7.14	7.86	8.93	-1.79	42.4	48.9	54.7	-6.3
5	5	6	Benson & Hedges	Philip Morris	4.88	4.91	4.59	0.29	29.0	30.6	28.1	1.2
6	6	7	Camel	Reynolds	4.51	4.87	4.30	0.21	26.8	30.3	26.3	0.6
7	7	8	Merit	Philip Morris	4.21	4.62	4.25	-0.04	25.0	28.8	26.0	1.5
8	20	NR	Generics	Liggett	4.20	0.83	NA	3.37*	24.9	5.2	NA	107.2*
9	8	5	Pall Mall	American	3.78	4.35	5.20	-1.42	22.4	27.1	31.8	-8.0
10	10	9	Vantage	Reynolds	3.53	3.85	3.90	-0.37	20.9	24.0	23.9	-0.5
11	9	10	Kent	Lorillard	3.30	4.09	3.34	-0.04	19.7	25.5	20.4	2.4
12	12	13	Newport	Lorillard	3.10	2.41	1.90	1.20	18.3	15.0	11.7	13.0
13	11	12	Virginia Slims	Philip Morris	2.66	2.57	2.30	0.35	15.7	18.0	14.0	6.0
14	13	11	Carlton	American	1.90	2.10	2.52	-0.62	11.2	13.1	15.4	-6.2
15	14	NR	More	Reynolds	1.48	1.60	NA	-0.12**	8.8	9.9	NA	-1.8**
16	15	14	Raleigh	Brown & Williamson	1.27	1.57	1.82	-0.55	7.5	9.8	11.1	-8.4
17	16	15	True	Lorillard	1.19	1.44	1.80	-0.61	7.1	9.1	11.1	-9.1
18	18	17	Tareyton	American	1.10	1.31	1.69	-0.59	6.5	8.2	10.3	-12.0
19	17	16	Viceroy	Brown & Williamson	1.10	1.35	1.76	-0.66	6.5	8.4	10.8	-12.0
20	19	18	Parliament	Philip Morris	1.04	1.13	1.22	-0.18	6.2	7.0	7.5	-4.5

\* 1982-84 \*\* 1981-84  
NR = not ranked NA = not available

DATA: BW

Source: Business Week, March 22, 1985

2022971927

EXHIBIT 5

EXAMPLES OF TOBACCO INDUSTRY  
ADVOCACY ADVERTISING

# 'I'll fill in the government's blanks.'

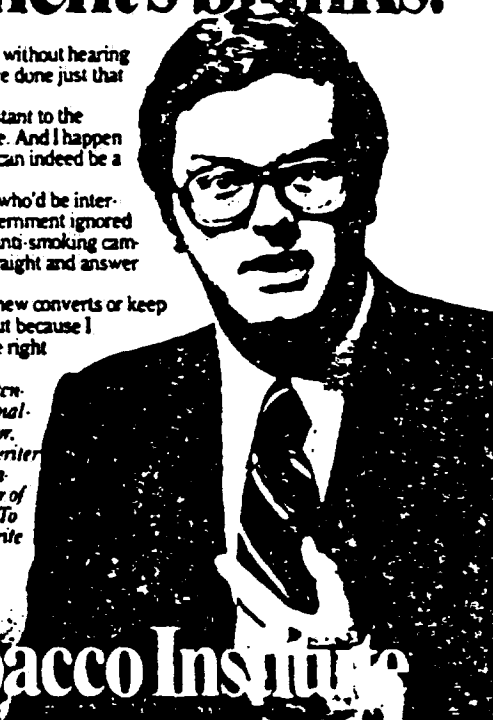
No judge would decide a case without hearing both sides. But a lot of people have done just that on the subject of smoking.

I'm Walker Merryman, Assistant to the President of The Tobacco Institute. And I happen to believe that a little knowledge can indeed be a dangerous thing.

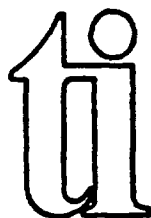
So if you've got an audience who'd be interested in some of the facts the government ignored when it embarked on its current anti-smoking campaign, I'd like to set the record straight and answer their questions.

Not because I want to make new converts or keep anybody from quitting. I don't. But because I think the American public has the right to the whole truth.

*Walker Merryman has an extensive background in broadcast journalism. He has served as news director, documentary film producer, and writer for several radio and television stations and is a member of a number of prestigious professional societies. To arrange for a guest appearance, write The Tobacco Institute, 1875 I St., N.W., Washington, D.C. 20006, or call (800) 424-9876.*



## The Tobacco Institute



2022971928

# Maybe they aren't ready for everything they learn.

It's no secret that kids learn about more things at school than just schoolwork. Often, their peers instruct them in the ways of the adult world.

For example, smoking.  
Against your wishes.

And ours.

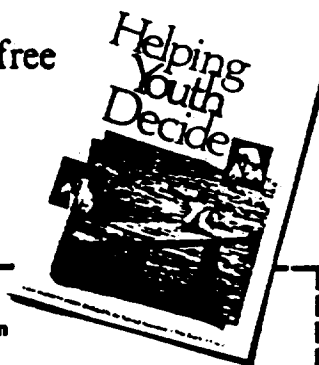
We believe smoking is an adult custom, and that the decision whether to smoke or not

should be based on mature and informed judgment.

Of course, smoking is just one of many practices reserved for adults by traditional or religious or even legal restriction. The list ranges from driving and obtaining credit to military enlistment, voting, drinking, marriage and many more.

All can be discussed seriously between parent and child. You may be assisted in dealing with these subjects by the advice and suggestions in a new program for parents and young teens, published by the National Association of State Boards of Education with the assistance of The Tobacco Institute.

For your free copy of "Helping Youth Decide," simply return the coupon.



National Association of  
State Boards of Education  
Post Office Box 1176  
Alexandria, VA 22313

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

2022971929

# WHERE THERE'S SMOKE, THERE'S CONTROVERSY.

People feel strongly about smoking. You can spark a lot of interest by exposing them to both sides of issues involving cigarettes.

**Walker Merryman** can help. His job is giving straight answers to tough questions about cigarettes, in person or on the phone.

Get the other side too. And you'll get people involved.



CALL TOLL-FREE (800) 424-9876  
THE TOBACCO INSTITUTE

Broadcasting May 21, 1984  
60

2022971930



# Second-Hand Smoke: The Myth and The Reality.

Many non-smokers are annoyed by cigarette smoke. This is a reality that's been with us for a long time.

Lately, however, many non-smokers have come to believe that cigarette smoke in the air can actually cause disease.

*But, in fact, there is little evidence—and certainly nothing which proves scientifically—that cigarette smoke causes disease in non-smokers.*

We know this statement may seem biased. But it is supported by findings and views of independent scientists—including some of the tobacco industry's biggest critics.

Lawrence Garfinkel of the American Cancer Society, for example. Mr. Garfinkel, who is the Society's chief statistician, published a study in 1981 covering over 175,000 people, and reported that "passive smoking" had "very little, if any" effect on lung cancer rates among non-smokers.

You may have seen reports stating that in the course of an evening, a non-smoker could breathe in an amount of smoke equivalent to several cigarettes or more.

But a scientific study by the Harvard School of Public Health, conducted in various public places, found that non-smokers might inhale anywhere *from 1/1000th to 1/100th of one filter cigarette per hour*. At that rate, it would take you at least 4 days to inhale the equivalent of a single cigarette.

Often our own concerns about our health can take an unproven claim and magnify it out of all proportion; so, what begins as a misconception turns into a frightening myth.

Is "second-hand smoke" one of these myths? We hope the information we've offered will help you sort out some of the realities.

2022971931

# Smoking in public: Let's separate fact from friction.

There has always been some friction between smokers and non-smokers. But lately this friction has grown more heated.

The controversy has been fueled by questionable reports which claim that "second-hand smoke" is a cause of serious diseases among non-smokers.

*But, in fact, there is little evidence—and certainly nothing which proves scientifically—that cigarette smoke causes disease in non-smokers.*

Skeptics might call this the wishful thinking of a tobacco company. But consider the scientific judgment of some of the leading authorities in the field—including outspoken critics of smoking.

For example, in 1983 the organizer of an international conference on environmental tobacco smoke (ETS) summarized the evidence on lung cancer as follows: "An overall evaluation based upon available scientific data leads to the conclusion that an increased risk for non-smokers from ETS exposure has not been established."

Even the chief statistician of the American Cancer Society, Lawrence Garfinkel, has gone on record as saying, "passive smoking may be a political matter, but it is not a main issue in terms of health policy."

Which brings us back to our original point: cigarette smoke can be very annoying to non-smokers.

But how shall we as a society deal with this problem?

Confrontation? Segregation? Legislation?

No. We think annoyance is neither a governmental problem nor a medical problem. It's a people problem.

Smokers and non-smokers have to talk to one another. Not yell, preach, threaten, badger or bully. Talk.

Smokers can help by being more considerate and responsible. Non-smokers can help by being more tolerant. And both groups can help by showing more respect for each other's rights and feelings.

But eliminating rumor and rhetoric will help most of all.

Because when you stick to the facts, it's a lot easier to deal with the friction.

2022971932

# Can we have an open debate about smoking?

The issues that surround smoking are so complex, and so emotional, it's hard to debate them objectively.

In fact, many of you probably believe there is nothing to debate.

Over the years, you've heard so many negative reports about smoking and health—and so little to challenge these reports—that you may assume the case against smoking is closed.

But this is far from the truth.

Studies which conclude that smoking causes disease have regularly ignored significant evidence to the contrary. These scientific findings come from research completely independent of the tobacco industry.

We at R.J. Reynolds think you will find such evidence very interesting. Because we think reasonable people who analyze it may come to see this issue not as a closed case, but as an open controversy.

We know some of you may be suspicious of what we'll say, simply because we're a cigarette company.

We know some of you may question our motives.

But we also know that by keeping silent, we've contributed to this climate of doubt and distrust. We may also have created the mistaken impression that we have nothing to say on these issues.

That is why we've decided to speak out now, and why we intend to continue speaking out in the future.

During the coming months we will discuss a number of key questions relating to smoking and health. We will also explore other important issues including relations between smokers and non-smokers, smoking among our youth, and "passive smoking."

Some of the things we say may surprise you. Even the fact that we say them may prove controversial.

But we won't shy away from the controversy because, quite frankly, that's our whole point.

We don't say there are no questions about smoking. Just the opposite. We say there are lots of questions—but, as yet, no simple answers.

Like any controversy, this one has more than one side. We hope the debate will be an open one.

R.J. Reynolds Tobacco Company

EXHIBIT 6

SAMPLE OF HEALTH ORGANIZATIONS THAT ACCEPT EXISTENCE OF  
A CAUSAL RELATIONSHIP BETWEEN CIGARETTE SMOKING AND DISEASE

Private Medical and Health Organizations

American Medical Association  
American Heart Association  
American Cancer Society  
American Lung Association  
American Academy of Family Physicians  
American College of Cardiology  
American Academy of Pediatrics  
American College of Obstetricians and Gynecologists  
American College of Physicians  
American College of Chest Physicians  
American Society of Head and Neck Surgeons  
American College of Preventive Medicine  
Association of Teachers of Preventive Medicine  
American Society of Internal Medicine  
American Nurses Association  
American Association of Respiratory Therapists  
American Dental Association  
American Medical Student Association  
Association for the Advancement of Health Education  
American Hospital Association  
March of Dimes  
Association of State and Territorial Health Officials  
American Council on Cancer Research  
World Health Organization  
Health Insurance Association of America  
American Council of Life Insurance

Government Organizations

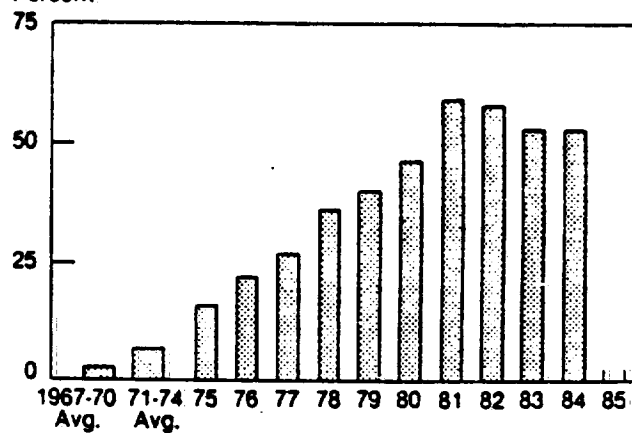
National Institutes on Health  
    National Cancer Institute  
    National Heart, Lung, and Blood Institute  
    National Institute of Child Health and Human Development  
    National Institute on Drug Abuse  
U.S. Department of Health and Human Services  
Center for Disease Control

Source: Testimony before Congress concerning 1984 health warning  
legislation; press reports; organization documents.

2022971934

# EXHIBIT 7

**Cigarettes Low-Tar Market Share\***  
Percent



\*15 mg. "Tar" or less. Federal Trade Commission Data.  
Latest year estimated.

2022971935

## EXHIBIT 8

CIGARETTE ADVERTISING REVENUES OF THE  
NATION'S LEADING MAGAZINES

<i>Magazine</i>	<i>Pages of cigarette ads per year</i>	<i>Yearly revenue</i>	<i>Percent of cigarette ads</i>
Atlantic	42.0	374,724	20.5
Better Homes	194.5	12,945,229	13.5
Black Enterprise	36.0	370,859	7.8
Bon Appetit	64.8	1,044,150	6.8
Book Digest	16.8	95,520	6.5
Business Week	43.8	1,340,404	1.0
Car & Driver	58.7	1,340,353	8.6
Changing Times	50.5	1,096,672	17.5
Cosmopolitan	198.8	5,756,536	9.4
Discover	50.5	775,732	16.1
Duns Review	7.2	72,504	0.9
Ebony	67.2	1,526,995	8.1
Elks Magazine	10.8	106,080	6.0
Esquire	45.6	788,616	11.4
Essence	52.2	582,510	6.3
Family Circle	194.2	10,824,341	12.5
Family Handyman	14.9	234,277	4.5
Field & Stream	130.1	4,304,230	17.4
O Plus	1.2	6,564	0.4
Forbes	24.1	566,741	1.1
Fortune	5.5	215,686	0.3
Gallery	25.3	162,419	26.5
Games	20.4	194,778	18.6
Gentlemen's Quarterly	7.2	72,126	0.8
Glamour	149.2	3,426,371	7.6
Golf	50.4	867,023	6.7
Golf Digest	24.2	644,993	3.7
Gourmet	31.2	461,748	5.4
Grit	82.5	788,586	29.1
Harpers Bazaar	68.4	1,012,746	7.1
Harpers Magazine	43.2	384,816	22.6
House Beautiful	80.4	1,560,036	8.7
House & Garden	133.0	3,231,088	12.4
Inside Sports	70.8	949,482	21.1
Ladies Home Journal	162.3	7,865,491	16.3
Life	108.0	3,630,032	17.8
Mademoiselle	101.6	1,470,584	7.3
McCall's Magazine	171.4	9,612,510	15.1
McCall's Working Mother	10.8	66,324	1.9
Mechanix Illustrated	107.2	2,821,762	18.4
Metropolitan Home	134.1	1,855,849	20.0
Money	88.0	2,043,047	9.5
Ms.	61.0	605,369	14.8
Nation's Business	9.6	246,780	2.1

Source: Whelan, E, A Smoking Gun, p.179-180

2022971936

## EXHIBIT 8 (contd.)

<i>Magazine</i>	<i>Pages of cigarette ads per year</i>	<i>Yearly revenue</i>	<i>Percent of cigarette ads</i>
New West	63.6	580,679	11.4
New York with Cue	107.2	1,664,824	8.8
Newsweek	471.3	30,145,246	15.8
Next	27.6	230,230	20.0
Omni	61.3	946,492	9.6
OUI	82.9	855,908	34.5
Outdoor Life	102.0	2,472,612	16.2
Panorama	8.4	19,740	5.4
Penthouse	143.2	5,615,332	19.5
People	525.6	20,137,840	16.3
Playboy	192.6	11,175,624	15.5
Popular Mechanics	81.2	2,125,746	10.1
Science Monthly	100.5	2,832,427	17.4
Prime Time	2.4	9,517	2.1
Psychology Today	78.0	2,027,993	17.2
Redbook Magazine	183.1	7,850,875	16.1
Road & Track	60.6	1,193,434	9.2
Rolling Stone	100.8	1,703,632	12.3
Saturday Review	36.0	371,603	12.1
Science Digest	16.8	189,678	7.1
Self	79.2	1,129,850	10.7
Signature	22.8	192,504	3.8
Southern Living	85.1	2,298,145	6.8
Sport	80.5	1,524,012	20.5
Sports Afield	65.1	805,820	9.1
Sports Illustrated	432.9	24,611,965	16.9
TV Guide	412.9	30,075,811	12.7
Tennis	13.2	169,130	2.0
Texas Monthly	69.6	654,522	6.1
Time	460.9	40,530,667	17.2
Town & Country	7.2	72,698	0.6
Travel & Leisure	24.0	443,292	2.5
True Story	90.7	1,260,557	16.7
U.S. News & World Report	249.3	10,950,610	14.6
US	95.6	1,425,782	25.2
Vogue	110.0	1,952,276	5.1
Woman's Day	166.6	9,241,187	11.3
Working Woman	58.8	514,296	9.3
World Press Review	1.2	3,251	0.9
Totals	8020.3	308,348,490	

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# **THE ADVERTISING PRINCIPLES OF AMERICAN BUSINESS\***

## **TRUTH**

Advertising shall tell the truth, and shall reveal significant facts, the omission of which would mislead the public.

## **SUBSTANTIATION**

Advertising claims shall be substantiated by evidence in possession of the advertiser and advertising agency, prior to making such claims.

## **COMPARISONS**

Advertising shall refrain from making false, misleading, or unsubstantiated statements or claims about a competitor or his products or services.

## **BAIT ADVERTISING**

Advertising shall not offer products or services for sale unless such offer constitutes a bona fide effort to sell the advertised products or services and is not a device to switch consumers to other goods or services, usually higher priced.

## **GUARANTEES AND WARRANTIES**

Advertising of guarantees and warranties shall be explicit, with sufficient information to apprise consumers of their principal terms and limitations or, when space or time restrictions preclude such disclosures, the advertisement should clearly reveal where the full text of the guarantee or warranty can be examined before purchase.

## **PRICE CLAIMS**

Advertising shall avoid price claims which are false or misleading, or savings claims which do not offer provable savings.

## **TESTIMONIALS**

Advertising containing testimonials shall be limited to those of competent witnesses who are reflecting a real and honest opinion or experience.

## **TASTE AND DECENCY**

Advertising shall be free of statements, illustrations or implications which are offensive to good taste or public decency.

\* Adopted by the American Advertising Federation Board of Directors, March 2, 1984, San Antonio, Texas.

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